

#### TEXAS RACING COMMISSION P.O. BOX 12080 AUSTIN, TEXAS 78711-2080 (512) 833-6699 FAX (512) 833-6907

Texas Racing Commission Thursday, December 14, 2006 10:30 a.m. Animal Health Commission 2105 Kramer Lane Auditorium Austin, Texas 78758

#### **AGENDA**

#### I. CALL TO ORDER Roll Call

#### **II. PUBLIC COMMENT**

#### **III. GENERAL BUSINESS**

Discussion, consideration and possible action on the following matters:

A.	Budget and Finance Update	Tab 1
B.	Report on Racetrack Inspections	Tab 2
C.	Report on Pari-Mutuel Advisory Committee Meeting	Tab 3
D.	Report on Medication and Drug Testing Group Meeting	Tab 4
E.	Discussion of Proposed Changes to Penalty Guidelines for Phenylbutazone Overages	Tab 5
F.	Approval of the Internal Audit Plan for FY 2007 - 2008	Tab 6
G.	Legislative Proposals by the Texas Racing Commission to the 80 <sup>th</sup> Texas Legislature, Regular Session (2007)	Tab 7

#### III. PROCEEDINGS ON RULEMAKING

Consideration of and possible action on the following rules:

Rule Reviews under Texas Government Code, Section 2001.039

A.	Adoption of Chapter 303, General Provisions,	Tab 8
	with amendments	
B.	Review of Chapter 301, Definitions, with	Tab 9
	proposed amendments	
C.	Review of Chapter 319, Veterinary Practices and Drug Testing, with proposed amendments	Tab 10
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#### **Rule Proposals**

D. Proposal to Amend §309.8, Racetrack License Fees Tab 11

Rules Proposed as a Result of the Pari-Mutuel Advisory Committee meeting

E. Proposal for New §321.2, Odds Manipulation Tab 12

- F. Proposal to Amend §321.29, Mutuel Tickets
- G. Proposal to Amend §321.33, Expiration Date
- H. Proposal to Amend §321.43, Cancellation of Win Wagers

#### IV. PROCEEDINGS ON RACETRACKS

Discussion, consideration and possible action on the following matters:

- A. Request by Gulf Greyhound to Modify its Tab 13 2007 Live Racing Schedule
- B. Request by Sam Houston Race Park and Valley Race Park Tab 14 for approval of an amendment to its totalisator contract with Scientific Games, Inc.

#### V. EXECUTIVE SESSION

Under Govt. Code §551.071, the Commission may open an executive session to confer with its attorney regarding potential litigation on any matter listed in this agenda.

Under Texas Racing Act, Art. 179e, Sec. 6.03, Vernon's Texas Civil Statutes, the Commission may open an executive session to review a totalisator contract.

#### VI. OLD/NEW BUSINESS

Schedule next Commission Meeting

#### VII. ADJOURN

#### **Texas Racing Commission**

FYE 08/31/2007 Cumulative Operating Budget Status by LBB Expenditure Object/Codes

With 25% of FY 2007 FY 2007 FY 2007 Unexpended Bal Year Lapsed % of **Expended Thru** Annual 11/30/2006 11/30/2006 Budget Expended Budget Description Strategy 4.00 FTE's = Regulate Racetrack Owners A.1.1. 57.358 172,081 25.00% 229,440 1001 Salaries and Wages 1,180 3,640 24.48% 1002 Other Personnel Cost 4.820 14.18% 4,291 2001 Prof Fees and Services 5,000 709 229 8.38% 21 2003 Consumables 250 2004 Utilities 31.68% 5,150 1,631 3,519 2005 Travel 2006 Rent Building 52.41% 10,356 2007 Rent Machine 5,616 7.55% 6.075 459 157,718 2009 Other Operating Cost \$ **CB** Computer Equipment 82,661 61,358 189,376 24.47% 250,735 Total 250,735 Strategy A.1.1. FTE's = A.2.1. Texas Bred Incentive 13.67% 740,698 4,677,796 5,418,494 ATB Money Expended 4,677,796 13.67% 740,698 5,418,494 \$ 5,418,494 Strategy A.2.1. Total 12.90 FTE's = Supervise Racing and Licensees A.3.1. 600,556 20.22% 752,765 152,209 1001 Salaries and Wages 10.31% 1002 Other Personnel Cost 20.752 2,140 18,612 15.84% 11,440 13,593 2,153 2001 Prof Fees and Services 2003 Consumables 2004 Utilities 20.30% 29,389 2005 Travel 36,875 7,486 2006 Rent Building 5.58% 42.500 2007 Rent Machine 4,875 0.00% 4,875 2009 Other Operating Cost 775,378 8.03% 29.660 2,590 **CB** Computer Equipment 32,250 43,232 166,578 694,532 19.34% 861,110 861,110 Total Strategy A.3.1. FTE's = 7.00 Monitor Occupational Licensee Act. A.3.2. 89,282 292,779 23.37% 1001 Salaries and Wages 382,062 7,830 19.20% 9.690 1.860 1002 Other Personnel Cost 2001 Prof Fees and Services 2003 Consumables 2004 Utilities 17.18% 24,450 4,200 20,250 2005 Travel 2006 Rent Building -3.66% 23,299 2007 Rent Machine 1.03% 3,875 40 3,835 2009 Other Operating Cost 411,845 (15,067)**CB** Computer Equipment 420,077 95,383 324,694 22.71% 420,077 Total Strategy A.3.2 6.80 FTE's = A.4.1. Inspect and Provide Emerg. Care 16.29% 319,679 381,897 62,217 1001 Salaries and Wages 7.043 29.43% 9,980 2,937 1002 Other Personnel Cost 14.99% 3,449 19,551 23,000 2001 Prof Fees and Services 2003 Consumables 2004 Utilities 4,004 10,096 28.40% 14,100 2005 Travel 2006 Rent Building -10.39% 21,807 2007 Rent Machine 6,560 7.93% 7,125 565 462,355 2009 Other Operating Cost **CB** Computer Equipment (48,061)16.78% 436,102 73.172 362,930 436,102 Total Strategy A.4.1.

Texas Racing Commission
FYE 08/31/2007
Cumulative Operating Budget Status
by LBB Expenditure Object/Codes

		FY 2007	FY 2007 Expended Thru	FY 2007 Unexpended Bal	With 25% of Year Lapsed % of
Strategy	Description	Annual Budget	11/30/2006	11/30/2006	Budget Expended
Strategy	FTE's = 6.50	200,01	<u> </u>		
A.4.2.	Administer Drug Testing				
/A.4.2.	1001 Salaries and Wages	283,898	65,910	217,988	23.22%
	1002 Other Personnel Cost	11,580	1,280	10,300	11.05%
	2001 Prof Fees and Services	-	90	(90)	
	2003 Consumables		-	-	
	2004 Utilities		-	-	
	2005 Travel	23,190	1,873	21,317	8.08%
5.36%	2006 Rent Building		-	-	
\$ 15,850	2007 Rent Machine		-	-	0.000
\$ 293,465	2009 Other Operating Cost	6,375	421	5,954	6.60%
\$ 15,728	CB Computer Equipment	325,043	69,574	255,470	21.40%
\$ 325,043	Total Strategy A.4.2.	323,043	09,374	200,470	21.4070
<b>L</b>	FTE's = 12.80				
B.1.1.	Occupational Licensing	421,920	100,425	321,495	23.80%
	1001 Salaries and Wages 1002 Other Personnel Cost	32,880	2,880	30,000	8.76%
	2001 Prof Fees and Services	02,000		-	
	2003 Consumables	2,500	36	2,464	1.44%
ł	2004 Utilities	-,		-	
1	2005 Travel	. 29,250	8,452	20,798	28.89%
3.18%		•	· -	-	
\$ 34,121	2007 Rent Machine	11,000	4,510	6,490	41.00%
\$ 484,646	2009 Other Operating Cost	36,625	3,480	33,145	9.50%
\$ 15,408	CB Computer Equipment	. •	-		00.400/
\$ 534,175	Total Strategy B.1.1.	534,175	119,783	414,392	22.42%
	FTE's = -				
B.1.2.	Texas OnLine		•	_	
İ	1001 Salaries and Wages	-	-	_	
	1002 Other Personnel Cost 2001 Prof Fees and Services		_	_	
	2001 Prof Fees and Services	_	_	-	
	2004 Utilities	-	-	-	
	2005 Travel	-	-	-	
	2006 Rent Building		-	-	
\$ 23,250	2007 Rent Machine	-	-	-	
-	2009 Other Operating Cost	23,250	2,850	20,400	12.26%
\$ -	CB Computer Equipment	-		- 20 400	12.26%
\$ 23,250		23,250	2,850	20,400	12.20%
	FTE's = 9.00				
C.1.1.	Monitor Wagering and Audit	404,259	101,065	303,194	25.00%
1	1001 Salaries and Wages 1002 Other Personnel Cost	10,740	2,520	8,220	23.46%
	2001 Prof Fees and Services	10,740	-	-	
	2003 Consumables	-	-	-	
	2004 Utilities	-	-	-	1
1	2005 Travel	21,944	2,256	19,688	10.28%
-7.76%			-		
\$ 28,160	2007 Rent Machine	-	-	-	
\$ 464,031		19,235	1,983	17,252	10.31%
\$ (36,013		450.470	107,824	348,354	23.64%
\$ 456,178		456,178	107,824	340,334	25.04 /6
1	FTE's = 4.00		,		
C.1.2.	Wagering & Compliance Inspections 1001 Salaries and Wages	173,527	43,382	130,145	25.00%
	1001 Salaries and Wages 1002 Other Personnel Cost	5,800	1,400	4,400	24.14%
1	2001 Prof Fees and Services	- 5,500	] -	-	
	2003 Consumables		-	-	
1	2004 Utilities	-	-	-	
1	2005 Travel	16,431	2,060	14,371	12.54%
-11.00%	I .	-	-	-	
\$ 11,457		-	-	-	
\$ 211,710	2009 Other Operating Cost	4,125	40	4,085	0.97%
\$ (23,284	) CB Computer Equipment		-	450,004	22.450/
\$ 199,883	Total Strategy C.1.2.	199,883	46,882	153,001	23.45%

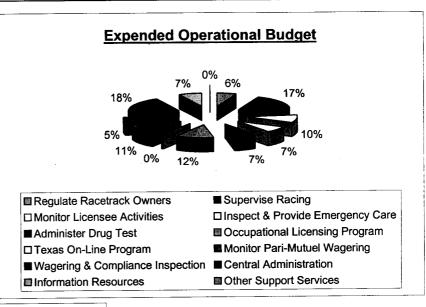
Þ	19,647	2007 Kent Wachine	2,300	400	2,010	13.42 /0
\$	768,354	2009 Other Operating Cost	173,286	33,253	140,033	19.19%
\$	(5,132)	CB Computer Equipment	-	-	-	
\$	782,869	Total Strategy D.1.1.	782,869	178,129	604,740	22.75%
		FTE's = 5.00				
D.2	.1.	Information Resources	,			
i .		1001 Salaries and Wages	278,618	69,114	209,504	24.81%
l		1002 Other Personnel Cost	5,780	1,460	4,320	25.26%
1		2001 Prof Fees and Services	20,000	-	20,000	0.00%
		2003 Consumables	-	19	(19)	
		2004 Utilities	-	215	(215)	
		2005 Travel	3,000	183	2,817	6.11%
1	-2.04%	2006 Rent Building	-	-	-	
\$	16,829	2007 Rent Machine	-	-	-1	
\$	305,291	2009 Other Operating Cost	8,500	11	8,489	0.12%
\$	(6,222)	CB Computer Equipment		-	-	
\$	315,898	Total Strategy D.1.2.	315,898	71,002	244,896	22.48%
		FTE's = 1.00				
D.1	.3.	Other Support Services			]	
		1001 Salaries and Wages	23,484	-	23,484	•
1		1002 Other Personnel Cost	3,420	-	3,420	
		2001 Prof Fees and Services	<u> </u>	-	-	
		2003 Consumables	-		-	
1		2004 Utilities	- 1	-	-	
i		2005 Travel	-	· =	- 1	•
1	0.00%	2006 Rent Building	-	-	-	
\$	1,884	2007 Rent Machine	-	-	-	
\$	25,020	2009 Other Operating Cost	-	-	-	
\$		CB Computer Equipment	-	-		
\$	26,904	Total Strategy D.1.3.	26,904	<u> </u>	26,904	
\$	249,159	Estimated 4% & 3% appropriation rider				
\$	4,383,063	Operating Budget regular appropriations	4,632,223	992,533	2,886,124	21.43%
					4 077 700	40.070/
		Strategy A.2.1. TX Bred Incentive	5,418,494	740,698	4,677,796	13.67%
	0,050,716	Total M.O.F.	40,050,747	4 700 004	7 502 000	17 040/
1 ' ' '		Total All Strategies	10,050,717	1,733,231	7,563,920	17.24%
<u> </u>			<u>*</u>			

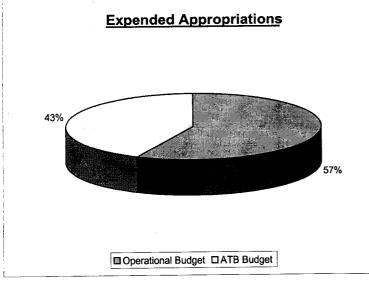
# Texas Racing Commission FYE 08/31/2007

FYE 08/31/2007 Cumulative Operating Budget Status by LBB Expenditure Object/Codes

		FY 2007	FY 2007	FY 2007	With 25% of
ļ		Annual	Expended Thru	Unexpended Bal	Year Lapsed % of
Strategy	Description	<u>Budget</u>	<u>11/30/2006</u>	<u>11/30/2006</u>	Budget Expended
\$ 0	FTE's = 76.40				
	Sum Of All Strategies other than A.2.1				
1	1001 Salaries and Wages	3,706,873	834,713	2,872,160	22.52%
i	1002 Other Personnel Cost	144,762	21,227	123,535	14.66%
	2001 Prof Fees and Services	86,593	10,901	75,692	12.59%
	2003 Consumables	29,695	2,375	27,320	8.00%
	2004 Utilities	22,500	4,256	18,244	18.92%
	2005 Travel	197,390	33,473	163,917	16.96%
	2006 Rent Building	105,314	34,901	70,412	33.14%
	2007 Rent Machine	13,500	4,996	8,504	37.01%
	2009 Other Operating Cost	293,346	43,102	250,245	14.69%
	CB Computer Equipment	32,250	2,590	29,660	8.03%
\$ 4,632,223	l	4,632,223	992,533	3,639,690	21.43%
\$ 5,418,494	Strategy A.2.1. TX Bred Incentive	5,418,494	740,698	4,677,796	13.67%
				0.047.405	47.040/
\$10.050.717	Total All Strategies	10,050,717	1,733,231	8,317,485	17.24%

Expended Operational Budge	<u>et By</u>	Strategy
Regulate Racetrack Owners	\$	61,358
Supervise Racing	\$	166,578
Monitor Licensee Activities	\$	95,383
Inspect & Provide Emergency Care	\$	73,172
Administer Drug Test	\$	69,574
Occupational Licensing Program	\$	119,783
Texas On-Line Program	\$	2,850
Monitor Pari-Mutuel Wagering	\$	107,824
Wagering & Compliance Inspection	\$	46,882
Central Administration	\$	178,129
Information Resources	\$	71,002
Other Support Services	\$	-





Expended Appropriations
Operational Budget \$ 992,533
ATB Budget \$ 740,698

#### Texas Racing Commission FYE 08/31/2007 Agency Operational Cash Flow Statement

Operational Cash Flow:													
Cash Fund Balance Brought Forward: \$ 400,000	FY 2007 Actual September	FY 2007 Actual October	FY 2007 Projected November	FY 2007 Projected December	FY 2007 Projected January	FY 2007 Projected February	FY 2007 Projected March	FY 2007 Projected April	FY 2007 Projected May	FY 2007 Projected June	FY 2007 Projected July	FY 2007 Projected August	FY 2007 Projected <u>Budget</u>
Cash In:		30000.	<u> </u>	<u> Boodinibol</u>	<u>oandary</u>	<u>r ebidaiy</u>	<u>iwarch</u>	<u> </u>	iviay	Julie	guiy	August	budget
Revenue:	:												
Live Race Day Fees	90,535.00	97,620.00	92,060.00	_	.	_	_	_	_	_		_	280,215.00
Simulcast Race Day Fees	88,930.00	88,740.00	85,160.00	_	.	_	_	_	_	_		_	262,830.00
1/2 of Breakage	8,435.55	7,557.79	8,156.00	_	.	_ [	_	_					24,149.34
Outs	- 1	1,748,415.19	3,296.61	_	_	_	_	_	_	_	_	_	1,751,711.80
Occupational License	42,925.00	65,800.00	66,765.00	-	.	_	_	_		_	_		175,490.00
Other Revenue	41,453.73	2,512.73	3,732.25	_	_	_		_	_	_		_	47,698.71
Total Revenue	272,279.28	2,010,645.71	259,169.86									<u> </u>	
Pass Through:	212,213.20	2,010,043.71	259,109.00	-	-	-	-	-	-	-	-	-	2,542,094.85
ATB Funds		*****											
ATD Fullus	376,637.65	364,060.45					<del></del>						740,698.10
Total Cash In:	040.040.00	0.074.700.40			···								
Total Cash in:	648,916.93	2,374,706.16	259,169.86	-	-	-	-	-	-	-	-		3,282,792.95
Cash Out:										!			
Expenses:													
Expenditures: (un-appropriated)	71 221 00	74 075 00	404 007 44										
Personnel Salaries: (appropriated)	71,321.98	71,875.80	104,027.11	-	-	-	-	-	-	-	-	-	247,224.89
Operating Expenditures: (appropriated)	271,718.91	276,841.95	286,151.73	-	-	-	-	-	-	-	-	-	834,712.59
	55,050.32	47,556.62	55,273.48					-					157,880.42
Total Expenses:	398,091.21	396,274.37	445,452.32	-	-	-	-	•	-	-	-	-	1,239,817.90
Pass Through:													
Texas Greyhound	53,637.70	47,425.84	_	_									404 000 54
Texas Arabians	3,326.16	3,096.88	_		-	-	-	-	-	-	•	-	101,063.54
Texas Paint Horse	1,873.15	2,081.72			-	-	-	-	-	-	-	-	6,423.04
Texas QH	101,791.68	108,716.46	_		-	-	-	-	-	-	-	-	3,954.87
Texas TB	209,321.74	196,190.64	_	-	-	-	-	-	-	-	-	-	210,508.14
Equine Research	6,687.22	6,548.91	_ [		-	-	-	-	-	-	-	-	405,512.38
Total Pass Through:	376,637.65	364,060.45											13,236.13
Total Lass Though.	370,037.03	304,000.43	-	-	-	-	-	-	-	-	-	-	740,698.10
Total Cash Out:	774,728.86	760,334.82	445,452.32	-		-	-	-	-	-	-	-	1,980,516.00
Cash Fund Balance:	274,188.07	1,888,559.41	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95
Pass Through Liability Retained:													
Cash Fund Balance Available with Pass Through Liability Retained:	274,188.07	1,888,559.41	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95	1,702,276.95
Projected Cash Fund Balance:	216,514.57	1,772,553.19	1,571,100.34	1,342,199.66	1,078,763.98	826,319.06	636,538.14	438,574.04	263,799.23	69,256.61	(115,959.44)	(358,798.51)	(358,798.51)

# Texas Racing Commission Report on Racetrack Inspection Activities December 14, 2006

Date of Inspection	Track	Type of Inspection	Number of Unsatisfactory Items	Track Remediation Complete	Inspection resolved
6/15/06	Sam Houston	Pari-mutuel	1		
9/27/06	Lone Star	Enforcement	11	1 resolved 10/6/06	10/6/06
9/29/06	Lone Star	Pari-mutuel	0	·	
10/3/06	Lone Star	Racing-Stewards	0		
10/6/06	Lone Star	Veterinary	1	1 resolved 10/25/06	10/25/06
10/10/06	Gulf	Enforcement	4	2 resolved 12/5/06	
11/7/06	Sam Houston	Pari-mutuel	2		<del></del>
11/13/06	Sam Houston	Racing-Stewards	0		
11/16/06	Sam Houston	Enforcement	0		
11/17/06	Valley	Enforcement	11		
11/21/06	Valley	Racing-Judges	0		
11/22/06	Sam Houston	Veterinary	0		

#### TEXAS RACING COMMISSION

#### PARI-MUTUEL ADVISORY COMMITTEE

#### MEETING REPORT OCTOBER 25, 2006

# PROPOSED ADDITIONS AND CHANGES TO RULES REGARDING PARI-MUTUEL WAGERING

WORKING GROUP PARTICIPANTS INCLUDED MUTUEL DEPARTMENT REPRESENTATIVES FROM CORPUS CHRISTI GREYHOUND PARK, GULF GREYHOUND PARK, LONE STAR PARK, RETAMA PARK, SAM HOUSTON RACE PARK AND VALLEY RACE PARK, REPRESENTATIVES FROM AMTOTE, SCIENTIFIC GAMES INTERNATIONAL, UNITED TOTE, THE STATE COMPTROLLER'S OFFICE, AND STAFF MEMBERS OF THE COMMISSION.

#### OVERVIEW OF DISCUSSION:

The Committee discussed three areas of regulatory concern: odds manipulation, wager cancellation, and expiration of mutuel tickets. Draft rules were provided for Committee review.

#### ODDS MANIPULATION

• The Committee reviewed the need for a rule addressing odds manipulation to include the intentional manipulation of Odds and Will Pays as a detrimental practice. Although odds manipulation is a commonly used term, no written definition currently exists. Because the wagering public relies upon the Odds and Will Pays as a handicapping tool, the Committee agreed that maintaining the integrity of these publicly disseminated numbers will help to ensure that the public will trust the accuracy of the pools.

The Committee discussed the interpretation of odds manipulation and explored who would make those determinations. The racetracks were concerned about patrons being expelled from the racetrack without due cause and due process of law.

The Committee agreed that to provide continuity, Pari-mutuel Auditors will review canceled ticket reports, bring any suspicious activity to the attention of the mutuel manager, and then report the activity to the stewards/judges for further disciplinary action.

A tote company representative suggested that Will Pays on Daily Doubles, Exactas and Quinellas were just as sensitive to manipulation as Win pool Odds. It was proposed to add Will Pays to the rule definition in addition to Win pool Odds.

The Committee voted unanimously to submit a draft Odds Manipulation rule, as discussed, to the Texas Racing Commission for consideration.

#### CANCELLATION OF WAGERS

• A change to the Cancellation of Win Wager rule was also discussed. Commission staff proposed to clarify the Cancellation of Win Wager rule in regard to the cancellation of wagers on self-serve wagering machines. Currently, the rule is silent regarding the cancellation of wagers on self-serve machines; however, there has been a long-standing policy of not allowing cancellations on these machines. The commission staff and Department of Public Safety staff have concerns about the unmonitored and/or unregulated cancellation of wagers on self-serve machines and the potential impact for odds manipulation.

The Committee discussed in detail the circumstances that led to the need for a rule in this area. Without notification to the Commission, Sam Houston Race Park (SHRP) began allowing cancellations on self-serve wagering machines approximately two years ago. SHRP implemented the change to provide better customer service by more efficient use of self-serve machines. The racetracks are increasing the use of self-serve wagering machines to lower the cost of teller payroll.

At the time of the Committee meeting, Sam Houston Race Park and Valley Race Park were the only two racetracks in the state that allowed cancellations at their self-serve wagering machines.

favor of allowing this practice. The industry is using an increasing numbers of self-serve machines in an attempt to lower their personnel costs.

The racetracks indicated that they could regulate themselves, with state oversight, in regard to the cancellation of wagers and detecting odds manipulation. They reported they were doing a good job since there has only been one recently reported incident.

In August, a licensee placed a series of four \$200 Win wagers on a horse, beginning at about 30 minutes before post time. This initially caused the odds on that horse to drop to 1-9 and the odds on every other horse to rise. At 5 minutes before post, the licensee went to a manned teller window and canceled those four wagers. This changed caused the Odds on the horse to drop from 7-2 to 8-1. He then replaced those wagers with a series of bets involving a different horse, one that he owned. His horse began the day at odds of 5-2 and was listed in the program as the race's favorite. The General Manager of the racetrack noticed the dramatic fluctuations and began an investigation. The teller identified the bettor to the investigators, and as a result, both the agency and the association were able to take action against the licensee.

In the draft rule discussed by the Committee, the racetracks that wish to permit cancellations at self serve machines would be required to provide a written plan to the executive secretary for approval. The agency intends to require the plan to address the procedures for detecting Odds Manipulation on self-serve wagering machines and for identifying the individual responsible for the action.

The self-serve wagering machines at Lone Star Park, Retama Park, and Corpus Christi Greyhound Park are not programmed to allow cancellations. Software and hardware modifications will have to be tested and implemented before cancellations are enabled. The other racetracks currently have the ability to cancel self-serve wagering machines.

The committee voted unanimously to submit the proposed changes of the Cancellation of Win Wager rule to the Commission.

items, or patron information.

The Committee voted unanimously to submit the discussed modifications to the Commission.

#### OTHER BUSINESS:

The evolution of a new totalisator system protocol, Wagering Transmission Protocol (WTP), was discussed. The new protocol will allow the individual wager identity to be transferred between tote companies and wagering outlets. This will allow the host racetrack to have more control over the wagers coming into their host pools. The Thoroughbred Racing Association (TRA) is working on the technology. Implementation is still a few years away.

The State Auditor's report and findings regarding security testing of the totalisator systems was discussed. Tote companies and racetracks were made aware of the need to increase security testing of the tote systems, which will have an associated cost.

The licensing and regulating of tote companies and simulcast service providers is under review by commission staff. As the tote companies and their parent companies continue to restructure and move their operations out of the state of Texas, the Racing Commission will need to modify its rules to keep up with the changing environment.



#### WAYNE SMITH HOUSE OF REPRESENTATIVES DISTRICT 128

CAPITOL OFFICE: P.O. Box 2910 Austin, Texas 78768-2910 (512) 463-0733 (512) 463-1323 FAX Toll Free: 1 (866) 423-5987 DISTRICT OFFICE: Lee College Rundell Hall, Rm. 111 511 S. Whiting Street Baytown, Texas 77520 (832) 556-2002 FAX (832) 556-0319

September 20, 2006

Charla Ann King, Executive Director Texas Racing Commission 8505 Cross Park Drive, Suite 110 Austin, Texas 78754

Re: Upcoming Pari-Mutuel Advisory Committee meeting

Dear Director King:

Pursuant to our conversation this day and conversations between my staff and yours, I understand that you will personally investigate the claim of Rudy Sangston concerning his unpaid winning pari-mutuel ticket. Furthermore, I request the Pari-Mutuel Advisory Committee consider amending Chapter 321 of the Rules of Racing to require an expiration date be printed on all mutual tickets during the upcoming Pari-Mutuel Advisory Committee meeting.

There is confusion concerning the expiration dates of mutual tickets. The technological challenge and financial burden of including this date on all tickets should be negligible.

I anticipate hearing from you shortly. Should you have any questions or concerns they may be directed to Colin Parrish in my Austin office, or to me in the district office. Thank you for your time and consideration in this matter.

Respectfully Yours,

REP. WAYNE SMITH

cc: Rudy Sangston

#### TEXAS RACING COMMISSION

# MEDICATION AND DRUG TESTING WORKING GROUP

#### MEETING REPORT NOV 16, 2006

# CONSIDERATION OF MODIFICATION OF RULES TO ALLOW TWO ADDITIONAL NONSTEROIDIAL ANTI-INFLAMMATORY DRUGS (NSAID) AND PROPOSED CHANGES TO CHAPTER 319

WORKING GROUP PARTICIPANTS INCLUDED TWO MEMBERS OF THE COMMISSION, THE BREED REGISTRIES, THE TEXAS HORSEMENS' PARTNERSHIP, THE HORSE RACETRACK ASSOCIATIONS, BACKSIDE VETERINARIANS, TVMDL STAFF, AND COMMISSION STAFF. GUESTS INCLUDED DR. TOMMY HAYS, DR. ROBERT LEWIS, CARL MOORE, DR.BRYAN NEFF, DR. KEN QUIRK AND SHERRY RASKA.

Dr. Stewart Marsh, Chief Veterinarian, led the discussion regarding possibility of adopting Racing Commissioners' International (RCI) model rule in regard to NonSterodial Anti-Inflammatory (NSAID) drugs.

Currently, Texas allows only one NSAID in post race test, phenylbutazone, "Bute," at a permissible level of 5 mcg/ml. The RCI model rule allows certain levels of one of three NSAIDs: Phenylbutazone, Flunixin, and/or Ketoprofen, in post race tests.

Model rule penalties for overages are different for different levels of the drugs and are considerably stronger than TxRC current guidelines, including penalties to the owner and putting the horse on the vet list. Dr. Marsh noted that staff is recommending a stronger penalty for a 10 mcg/ml or over Bute overage. Additionally, the model rules provide for an even stronger penalty if more than one NSAID is found.

Noting that adopting RCI's model rules with regard to NSAIDs would be not only a significant change in Texas medication policy, it would also increase drug testing an estimated \$13-\$14 per sample.

Dr. Marsh opened the floor for a full discussion on the pros and cons of making the change.

#### OVERVIEW OF DISCUSSION:

Several attendees thought the enhanced penalties were too harsh, especially the additional possible fine to the owner over and above the loss of any purse amount. Additionally, putting the horse on the vet's list for 45-60 days had no support. Further questions about how multiple overages on one day for one trainer would be handled, the ramifications for the new owner if a claimed horse had a significant overage, and the effect these increased penalties would have on a 'new' owner.

Several horsemen and veterinarians in attendance voiced support for the enhanced penalty for the Bute overages of 10 mcg/ml. Clearly these overages are caused by race day administration.

There was a good discussion on pros and cons of 'stacking', allowing 2 NSAIDs at permissible levels. Dr. Robert Lewis, a member of the RMTC, provided insight into the reasoning behind the rule regarding allowing only one NSAID. He stated that giving a range of drugs to choose from gave the Veterinarian a better choice in how to treat an individual horse, but that there were serious risks for stacking drugs and it was RMTC's opinion that it should not be permitted.

Comments were made about perhaps treating on a 'trial and error' basis because of uncertain withdrawal times for these drugs and accidental overages of Bute due to a groom giving oral administration of phenylbutazone. Responding to questions about needing accurate threshold periods for drugs, Dr. Lewis reported that RMTC has committed \$1.5 million to a 3-year threshold study using racehorses. RMTC has suggested assessing a per start fee to fund further research.

The cost aspect of adopting a new NSAID rule was discussed as it would add approximately \$75,000 to the drug testing costs. The tracks would be able to use the Outs to cover the additional costs. However, with the continued decline in outstanding ticket revenue, an individual track may not have enough to cover the costs. Increased costs will negatively affect the agency's revenue as the outstanding ticket revenue covers approximately 40% of the agency's funding.

Keeping in mind the goal of RCI for all jurisdictions to operate under similar rules, the group reviewed neighboring states' positions on NSAIDs as well as California, Kentucky and New York.

the state of the commission during its review of enapter 517.

Section 319.102. Veterinarian's List – Add that a workout for, or an examination by, a commission veterinarian in any other parimutuel jurisdiction will be recognized for the purpose of removing a horse from the Texas Veterinarian's List.

Section 319.108 Extracorporeal Shock Wave Therapy - Closely follow the model rules in setting out the conditions for the use of Extracorporeal Shock Wave Therapy and Radial Pulse Wave Therapy. The need to adopt rules governing this treatment has increased due to the placement of an ESWT machine on at least one association's grounds.

Section 319.111 Bleeders and Furosemide Program (e) Withdrawal from Furosemide Program – Modify the rules to simplify the process for withdrawing a horse from the fureosemide program.

Section 319.111(g) Bleeders List - Clarify the length of time that a horse is ineligible to race after an Exercise Induced Pulmonary Hemorrhage (EIPH) event as the current rule is confusing and difficult to read.

There was discussion on proposing a change so that a horse that is running on Furosemide and then has an EIPH event would be considered a first time bleeder. Currently, the horse is considered a second time bleeder. Dr. Marsh noted he would not be in favor of this change.

#### OTHER ITEMS

Commissioner Rutherford asked the attendees about their thoughts on the new synthetic track surface, Polytrack.

Drew Shubeck, Lone Star Park, offered that the industry is in the very early stages of use and that it was too soon to make decisions based on that data. He thinks day-to-day there are many things that can be done to a track to enhance safety.

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# PROPOSED CHANGES TO PENALTY GUIDELINES FOR PHENYLBUTAZONE OVERAGES

## Phenylbutazone - "Bute" - Permissible level - 5 mcg/ml

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CURRENT TXRC PENALTY GUIDELINES	PROPOSED PENALTY GUIDELINES for overage from 5.1 to 9.9 mcg/ml	PROPOSED PENALTY GUIDELINES for all overages of 10 mcg and higher
1 <sup>st</sup> offense - \$100 fine	1 <sup>st</sup> offense within 365 day period - Minimum \$250 fine	1 <sup>st</sup> offense within 365 day period – Minimum \$500 fine, Loss of purse & possible suspension
2 <sup>nd</sup> offense - \$250 fine	2 <sup>nd</sup> offense within 365 day period – Minimum \$500 fine	2 <sup>nd</sup> offense within 365 day period – Minimum \$1,000 fine, minimum 15 day suspension Loss of purse
3 <sup>rd</sup> offense within 365 day period - \$500 fine	3 <sup>rd</sup> offense within 365 day period – Minimum \$1,000 fine & minimum 15 day suspension	3 <sup>rd</sup> offense within 365 day period – Minimum \$2,500 fine, minimum 30 day suspension Loss of purse
Subsequent offenses within 365 day period - \$750 fine or more & possible suspension	Subsequent offenses within 365 day period – Minimum \$2,500 fine & minimum 30 day suspension	Subsequent offenses within 365 day period – Minimum \$5,000 fine, minimum 6 month suspension Loss of purse

Fine ranges are minimum amounts absent mitigating circumstances.

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#### RACING COMMISSIONERS' INTERNATIONAL (F FOR PHENYLBUTAZONE OV

## Phenylbutazone - "Bute" - Permissible level - 5 mcg/ml

	CURRENT TXRC PENALTY GUIDELINES	RCI PENALTY GUIDELINES for overage from 5.1 to 9.9 mcg/ml	
	1 <sup>st</sup> offense - \$100 fine	1 <sup>st</sup> offense (365 day period in <i>any</i> jurisdiction) - Minimum \$250 fine	1 <sup>s</sup> M E:
	2 <sup>nd</sup> offense - \$250 fine	2 <sup>nd</sup> offense (365 day period in <i>any</i> jurisdiction) – Minimum \$500 fine	2 <sup>r</sup> M Lo If
1	3 <sup>rd</sup> offense within 365 day period - \$500 fine Subsequent offenses within 365 day period - \$750 fine or more & possible suspension*	3 <sup>rd</sup> offense (365 day period in <i>any</i> jurisdiction) – Minimum \$1,000 fine & minimum 15 day suspension	3' N L If

Fine ranges are minimum amounts absent mitigating circumstances.

Member: American Institute of Certified Public Accountants

November 30, 2006

Commissioners of the Texas Racing Commission Austin, Texas

#### Dear Commissioners:

As required by the Internal Auditing Act (Texas Government Code, Section 2102.008), we have prepared the audit plan for Fiscal Years 2007 and 2008.

We prepared a risk assessment to determine the areas in the Texas Racing Commission that should be considered for audit. Based on that risk assessment, the following areas are recommended for audit in Fiscal Years 2007 and 2008:

#### Fiscal Year 2007

Texas Bred Incentive Program - Associations

- Texas Thoroughbred Association
- Texas Quarter Horse Association
- Texas Greyhound Association

#### Fiscal Year 2008

Business Continuity and Disaster Recovery
Selected Key Performance Measures
Follow-up on prior internal audit recommendations: *Internal Audit of Inspection Processes*, (Original Report: April 12, 2005)

Your approval of the areas above will enable us to commence audit activities for Fiscal Years 2007 and 2008. I would like to discuss this plan with you at the Commission meeting on December 14, 2006.

Sincerely,

Monday N. Rufus, CISA, CPA

Audit Manager

Monday N. Rufus, P.C.

6-1

(512) 380-0799 608 Morrow Street, Suite 101, Austin, Texas 78752 Fax (512) 380-0797

TEXAS RACING COMMISSION	
Internal Audit Plan Fiscal Years 2007 - 2008	
MONDAY N. RUFUS, P.C.	
Certified Public Accountants & Co	onsultants

608 Morrow Street, Suite 101, Austin, Texas 78752

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#### II. Background Information

The Texas Racing Commission was created in the Second Called Session of the 69<sup>th</sup> Legislature and approved by a state-wide referendum in November 1987. Article 179e, V.T.C.S., created the Texas Racing Commission and authorizes the Commission to:

- 1. Oversee the Texas Bred Incentive Programs for horses and greyhounds;
- 2. Evaluate applications and award licenses for pari-mutuel racetracks in Texas;
- 3. Oversee the construction and renovation of major horse tracks, major greyhound tracks, and numerous smaller horse tracks and county fair tracks throughout the State;
- 4. License, regulate, and enforce all aspects of pari-mutuel wagering and participants in pari-mutuel racing; and
- 5. Provide state and local revenues.

The Racing Act allows pari-mutuel wagering on horse and greyhound racing and provides for the strict regulation and control of pari-mutuel wagering in connection with that racing.

Principal responsibilities of the Commission are to:

- 1. Adopt rules and regulations for conducting racing involving wagering;
- 2. Administer and enforce all laws, rules, and regulations affecting horse racing, greyhound racing, and pari-mutuel wagering;
- 3. Adjudicate disciplinary matters arising from the enforcement of those laws and regulations dealing with horse racing and greyhound racing and pari-mutuel wagering; and
- 4. Regulate and supervise each racing meeting conducted in the state of Texas, the operations of racetracks, and the participants in a race meeting.

Extensive rulemaking authority is granted to the Commission throughout the Racing Act. The rulemaking authority vested in the Texas Racing Commission is authorized for administration and enforcement purposes.

The Agency's operating budget is prepared and approved by the Commission on an annual basis, whereas the State legislative appropriation request is determined every two years. Both the budget and appropriations are reviewed and approved by the State Legislature. The Agency is divided into three divisions.

Although the Agency's budget is approved by the legislature, it does not receive any General Revenue funds from the State for its operations. Revenues are primarily from license fees and fines, uncashed winning wagers, and breakage from wagering at greyhound racetracks. Approximately 50% of the expenditures are passed through the Agency to the official breed registries for the Texas Bred Incentive Programs. Funds collected by the Agency are directly utilized in operations, and not passed on to the State.

#### A. Divisional Information

The Agency's staff is organized into two operating divisions each of which carries out specific duties and responsibilities in carrying out the overall mission of the Agency. The two operating divisions are the Executive Division and the Finance and Regulatory Control Division.

i. Executive Division – The Division is headed by the Agency's Executive Secretary and includes the Agency's General Counsel, Racing, Special Projects, Policy & Planning, Veterinary, and the Enforcement Department. The Executive Secretary is responsible for establishing operating policies and procedures for the agency and ensuring the agency's regulatory responsibilities are carried out. The Executive Secretary represents the agency before the Legislature and other governmental agencies. The Executive Secretary, with the assistance of the General Counsel and support staff, coordinates evaluation of racetrack license applications, issues recommended race date allocations, and assesses administrative penalties against racetrack licensees.

The Enforcement Department consists of investigators who coordinate the enforcement of the Commission's Rules and the Texas Racing Act. Investigations are conducted on animal drug positives, criminal histories returned on licenses applicants, illegal wagering, use and possession of

The General Counsel advises the Commissioners and staff on all legal issues affecting the agency. The General Counsel coordinates all aspects of Commission meetings and rulemaking proceedings, as well as representing the agency before the State Office of Administrative Hearings when prosecuting appeals from decisions made by the Board of Stewards/Judges.

The Veterinary Department, supervised by the Chief Veterinarian, includes the Veterinarians and Test Barn workers. The veterinarians and test barn workers administer the Commission's comprehensive drug testing program for race animals. The veterinarians examine all race animals before they participate in a race and inspect each racetrack's facilities for conditions that may affect the health or safety of the race animals. The Chief Veterinarian serves as a resource for the Racing Division, providing vital input into the Commission's policies and procedures affecting the health and safety of the race animals. The Chief Veterinarian also serves as a liaison between the Commission and veterinary-related organizations and agencies, such as the Animal Health Commission, the American Association of Equine Practitioners, and the Texas Veterinary Medical Association.

The Special Projects, Policy and Planning Administrator performs advanced consultative services and technical assistance to develop, coordinate, and evaluate agency policies and procedures. The administrator manages and directs special projects as needed. Work also involves comprehensive preparation, coordination, and dissemination of public information, including annual report, strategic plan, customer service surveys, web administration, and responses to public information requests.

ii. Finance and Regulatory Control Division – This Division is responsible for all support activities for the Agency and responsible for all of the Commission's regulatory functions that are not restricted to live racing. This Division consists of the Finance and Accounting Department, Information Services Department, Pari-mutuel and Auditing Department, and Occupational Licensing Department. This Division is headed by the Deputy Director for Finance and Regulatory Control.

money is distributed as required by the Texas Racing Act.

The Occupational Licensing Department reviews applications and issues occupational licenses and registrations to all persons involved in pari-mutuel greyhound and horse racing. This department works closely with the investigators and the stewards/judges. Licensing staff at each racetrack help to maintain the integrity of the industry by ensuring that all participants are licensed and are in good standing.

#### B. Inspection Program

Regular inspections are conducted to ensure compliance before the beginning of each live race meet as tracks make renovations and personnel changes. The Executive Secretary reports on inspections at each Commission meeting.

#### C. Texas-Bred Incentive Program

The Texas Racing Act provides purse supplements and monetary awards to breeders and owners of Texas-bred greyhound and horses to encourage agriculture and the horse and greyhound breeding industries. Funding for the Texas-bred Greyhound Incentive Program is derived from a percentage of the total breakage from live, simulcast same-species, and simulcast cross-species handle; a percentage of multiple two and multiple three wagers from simulcast same species and simulcast cross-species handle; and a percentage of all wagers made at a Texas horse track on inter-state greyhound races. The Texas Racing Act authorizes an incentive award for each owner, breeder and stallion owner of an accredited Texas-bred horse that finishes first, second or third in any race other than a Texas-bred stakes race. The awards are funded from breakage from all pari-mutuel pools and a percentage of all multiple two and multiple three wagering pools from live, simulcast same-species, and simulcast cross-species.

The Texas Racing Act mandates that a portion of wagers made at horse tracks fund equine research for race horses. Research projects that address the needs and priorities of the Texas horse racing industry in the fields of Agricultural Economics, Animal Science, and Large Animal Medicine are submitted to the Equine Research Committee for grant consideration.

#### E. Financial Control Environment

The financial responsibility of the Agency is managed by the Accounting and Finance Department. Processing of payroll, purchasing, inventory and fixed asset maintenance are performed by this department.

## F. The Agency's total General Appropriations Act authority for fiscal year 2007 is as follows:

License and Regulate Racetracks	\$ 157,718	
Texas Bred Incentive Program	5,418,494	
Supervise & Conduct Live Races	775,378	
Monitor Occupational License Activities	411,845	
Inspect & Provide Emergency Care	462,355	
Administer Drug Tests	293,465	
Occupational Licensing Program	484,646	
TEXASONLINE	23,250	
Monitor Wagering and Audit	464,031	
Wagering Compliance Inspections	211,710	
Central Administration	768,354	
Information Resources	305,291	
Other Support Services	25,020	
Supplemental Appropriation	601,052	
Total	\$ 10,402,609	-
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Occupational Licensing Program TEXASONLINE Monitor Wagering and Audit Wagering Compliance Inspections Central Administration Information Resources Other Support Services Supplemental Appropriation	23,250 464,031 211,710 768,354 305,291 25,020 601,052	

#### TEXAS RACING COMMISSION

#### Internal Audit Plan - Fiscal Years 2007 - 2008

#### III. Internal Audit Plan Methodology

This section summarizes the methodology used in preparing the two-year internal audit plan. In order to understand the Agency and develop our risk assessment process, we reviewed the Agency's

- Strategic plan
- Legislative appropriations request/operating budget
- Annual Reports
- Audit Reports

We made inquiries of the Division Directors and Executive Division using a survey questionnaire. We also use other documents and/or data available to us. The main purpose of our inquiries was to obtain a generalized overview of how each division fits financially and non-financially into the framework of the Agency. One of the major factors in performing our inquiries, rather than relying solely on the amounts budgeted to each division in determining risk assessment, was to identify how much effect one division has on another division, thereby identifying the total impact that a particular division has on the Agency. This questionnaire was standardized to achieve responses to basic questions concerning each division. Questions related to business objectives, inputs, outputs, systems, critical success factors, process activities and business risks and controls. An assessment of the division's risk was also included, based on our inquiries as stated above.

In planning internal audit procedures, financial, operational, as well as compliance issues are considered in determining processes/systems of interest. Functional areas that cross many divisions and the interaction between divisions are key criteria in the process of identifying areas of interest. Agency financial reports, planning documents, laws, rules, and regulations, in addition to soliciting input from management and commission members, were all considered in developing the list of areas of interest. Upon completion of this list, each area was subjected to our risk analysis process.

The following Agency processes/systems have been considered during the development of the areas of interest list:

- Cash receipts and fee processing
- Cash disbursements
- Travel
- Payroll
- Personnel
- Reporting Performance Measures
- Budgeting and Reporting
- Licensing application and registrations
- Investigation process

- Business Continuity/Disaster Recovery
- Information Systems Security
- Information Technology System Development
- Drug testing
- Inspection Program
- Racing Administration
- Texas Bred Incentive Program Associations
- Texas Bred Incentive Program TxRC's Policies & Procedures
- Equine Research
- Historically Underutilized Businesses (HUD)
- Fixed Asset Management

There are numerous other areas that may be identified during the process of performing internal audit procedures over the next two years. Continuing input from both the commissioners and management will be essential in identifying additional or new areas of risk that should be considered in the future.

Our risk assessment was performed through the consideration of various factors, including:

- 1. Exposure Level (Adverse impact of errors within the process/unit)
- 2. Complexity of unit (Volatility of activities)
- 3. Materiality (Financial and Non Financial Impact)
- 4. Results of last audit (Positive, some findings, Negative, Not Applicable)
- 5. Extent of other coverage or oversight (More coverage, Some coverage, No coverage)
- 6. Quality of internal controls/adherence to laws (Excellent, Good, Fair, & Poor controls)
- 7. Changes in systems and processes (More changes, Some changes, No changes)
- 8. Normal audit interval (Audited in last 1 year, 3 years, 5 years, Never)

All of the above factors were considered in assessing risk and were taken into consideration for each process/system as to their impact on the Agency. Once each area of interest was evaluated, it was assigned a risk factor of high, moderate or low. The following is the result of our risk assessment process.

#### Processes Identified as High Overall Risk

Texas Bred Incentive Program - Associations Business Continuity/Disaster Recovery Information systems - Security

#### TEXAS RACING COMMISSION

#### Internal Audit Plan - Fiscal Years 2007 - 2008

#### Processes Identified as Moderate Overall Risk

Cash Disbursements
Personnel Processes
Racing Administration
Complaints / Investigation process
Licensing Application and Registrations
Inspection Program
Payroll
Reporting – Key Performance Measures
Cash receipts and fee processing
EDP Wagering Review/Audits
Texas Bred Incentive Program – TxRC's Policies and Procedures
Fixed Asset Management
Budgeting and Reporting

#### Processes Identified as Low Overall Risk

Equine Research
Pari-mutuel Auditing Process
Travel
Information Technology System Development
Drug Testing
Historically Underutilized Businesses (HUB)

#### IV. Internal Audit Plan

The internal audit plan is designed to provide a review of all areas considered risky. Although the plan is structured in this manner, it should not prevent the review of areas on a more frequent basis, in the case of future restructuring or development of new processes/systems. Also, special reviews might be added in the future as requested by the Commissioners or when deemed necessary by the internal audit function after performance of in-depth review of the specific divisions/systems and approval by the Commission.

Internal audit activities will be primarily concerned with documenting, testing and evaluating each division or system's internal control policies and procedures and the quality of performance in carrying them out. This will include reporting conditions and suggestions to management and evaluating management's response and plans for corrective actions. Opportunities for improved efficiency identified as a result of performing internal activities will be communicated to management and the Commissioners as part of the reporting process.

Internal Audit reviews for the fiscal years ending 2007 and 2008 are planned for the following processes/systems:

#### Fiscal Year 2007

Texas Bred Incentive Program - Associations

#### Fiscal Year 2008

Business Continuity and Disaster Recovery

Selected Key Performance Measures

(Follow-up on prior internal audit recommendations: Internal Audit of Inspection Processes Original Report: April 12, 2005)

These audits will take place from January 2007 through August 2007) of each fiscal year with final reporting occurring in September 2007 and September 2008, respectively. The above plan does not preclude the internal audit function from identifying and assessing risk relating to new divisions or systems added to the Agency.

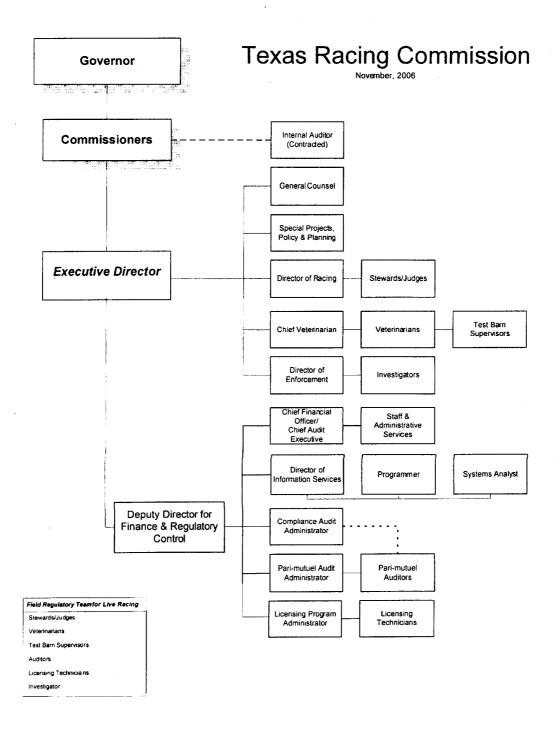
These processes/systems were identified for review through risk assessment methodology. As discussed above, this methodology included interviewing division directors through a questionnaire, identifying financial and non-financial risk, identifying interaction of divisions amongst each other, identifying rules and regulations various divisions must comply with and identifying the volume of transactions and personnel involved with the each division, and touring of one of the race tracks.

#### V. Reporting

In compliance with the Texas Internal Auditing Act, the annual internal audit report will be filed with the Governor, the Legislative Budget Board, the Sunset Advisory Commission, the State Auditor, the Commissioners of the Agency and the Agency's Executive Secretary by November 1, 2007 and 2008, respectively. The annual internal audit report will be in the form specified by the State Auditor.

#### **TEXAS RACING COMMISSION**

#### Appendix A: Organizational Chart



#### TEXAS RACING COMMISSION Internal Audit Plan – Fiscal Years 2007 - 2008

#### Appendix B: Risk Assessment

High = 38 and up Med = 30-37Low = less than 30

Texas Bred Incentive Program - Associations	
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Cash receipts and fee processing	32
EDP Wagering Review/Audits	32
Texas Bred Incentive Program – TxRC's Policies and Procedures	32
Fixed Asset Management	31
Budgeting and Reporting	30
Equine Research	29
Pari-mutuel Auditing Process	27
Travel	26
Information Technology System Development	26
Drug Testing	25
Historically Underutilized Businesses (HUB)	25

#### PROPOSED CHANGES TO THE TEXAS RACING ACT

#### Expand the Definition of Trainer

The current definition of trainer includes those who are licensed to train racehorses, but it does not include those licensed to train greyhounds. This amendment will expand the definition to recognize that both racehorses and greyhounds have trainers.

#### DRAFT LANGUAGE

 $\S$  1.03(36) "Trainer" means a person who is licensed by the commission to train racehorses or greyhounds.

#### PROPOSED CHANGES TO THE TEXAS RACING ACT

#### Expand the Definition of Handicapper

The current definition of handicapper includes those who predict the winner of a horse race, but it does not include those who predict the winner of a greyhound race. This amendment will expand the definition to recognize that there are handicappers for both horse and greyhound races.

#### DRAFT LANGUAGE

 $\S$  1.03(37) "Handicapper" means a person who predicts the winner of a horse or greyhound race.

# Redefine "Judge" to Mirror the Definition of Steward

The current definition of a judge refers to the position as an executive official of a greyhound racetrack, which could lead one to believe that judges are management employees of a greyhound association. This amendment would redefine the term to mirror the definition of a steward. This will clarify that judges are racing officials and define the nature of their authority.

#### DRAFT LANGUAGE

§ 1.03(53) "Judge" means an executive official of a greyhound racetrack. Suggest changing the definition of Judge to mirror that of Steward.

"Judge means a racing official with general authority and supervision over:

- (a) the conduct of a licensed race meeting; and
- (b) all licensees at a racetrack during a race meeting.

# Broaden the Definition of Executive Secretary

The Act defines the chief executive officer of the Texas Racing Commission as the Executive Secretary. While the term is traditional within the industry, it is rare among state agencies. This has led to confusion on the part of other agencies, which tend to view the title as equivalent to executive assistant. As a result, outside parties have misaddressed correspondence that they intended to send to the chief executive officer, causing delays and misunderstandings.

This amendment will define the term Executive Director to mean the Executive Secretary. This will allow the agency's chief executive officer to use of the traditional title "Executive Secretary" when communicating with the industry, but provide the flexibility to use the more standard title "Executive Director" when communicating with other parties.

### DRAFT LANGUAGE

§ 1.03(79) "Executive director" means the executive secretary of the Texas Racing Commission.

Request (LAR). "Section 3.07 Officials of Race Meetings" requires the Commission to employ all of the stewards and judges that supervise race meetings. This section also mandates that each horse race meeting be supervised by three stewards and each greyhound race meeting by three judges.

In response to submitting a budget request that did not exceed 90% of prior baseline appropriations, the agency's 2008-2009 LAR included a \$464,392 suggested cost savings over the biennium by transferring one-third of the state stewards and judges to racetrack association employment. If the Legislature agrees with this staffing change for budgetary reasons, then this section of the Act would have to be amended.

Racetrack associations may be in favor of this concept as it could give them greater influence over the day-to-day regulation of racing decisions. Funding the salary for one steward or judge may or may not be a significant cost differential to the association as the stewards' and judges' salaries are a component of the race date fee currently being paid. The association would be adding to its payroll and associated costs for the additional person. Included in this change would be an exemption to the Act's revolving door provision that prohibits an association from hiring certain Commission employees for a two-year period. Eliminating this restriction will give the association the opportunity to hire experienced Commission Judges and Stewards.

To maintain the independence of pari-mutuel regulation and ensure that every steward and judge may remain objective when making decisions that may negatively affect the racetracks, the agency asked for the restoration of this portion of its 10% budget cut. If the exceptional funding for this item is approved, the agency will continue to employ all of the stewards and judges and no statutory change will be required.

#### DRAFT LANGUAGE

## Sec. 3.07. Officials of Race Meetings.

(a) The commission shall employ all two of three of the judges and all two of three of the stewards for the supervision of a horse race or greyhound race meeting. Each horse race or greyhound race meeting shall be supervised by three stewards for horse racing or by three judges for greyhound racing. The commission shall designate one of the stewards or judges as the presiding steward or judge for each race meeting. The association, following the completion of the race meeting, may submit written comments to the commission regarding the job performance of the stewards and judges for the commission's review. Comments received are not binding, in any way, on the commission. For each race meeting, the commission shall employ at least one state veterinarian. The commission may, by rule, impose a fee on an association to offset the costs of compensating the stewards, judges, and state veterinarians. The amount of the fee for the compensation of stewards, judges, and state veterinarians must be reasonable according to industry standards for the compensation of those officials at other racetracks and may not exceed the actual cost to the commission for compensating the officials. All other racetrack officials shall be appointed by the association, with the approval of the commission. Compensation for those officials not compensated by the commission shall be determined by the association. 7-5

# Revise Language Relating to the Pre/Post Race Drug Testing

The Act states that the Commission *may* require pre-race testing and *shall* require post-race testing to determine whether a prohibited substance has been used. This directive presents a problem in respect to greyhounds. Due to the sequence of events at greyhound tracks, it is easier to obtain pre-race specimens than post-race specimens. However, just the opposite is true of horse specimens. According to the Texas Veterinary Medical Diagnosit Laboratory, there is absolutely no difference in testing effectiveness between using pre-race and post-race specimens.

As trainers and owners of greyhounds have no contact with the animals between the time the prerace samples are collected and the running of the races, there is no reason so emphasize post-race testing over pre-race testing for greyhounds. A recent audit of the Commission correctly pointed out our lack of post-race testing procedures for greyhounds.

This amendment would allow more flexibility while conforming to the realities of both greyhound and horse drug testing.

#### DRAFT LANGUAGE

# Sec. 3.16. Rules Relating to Unlawful Influences on Racing.

- (a) The commission shall adopt rules prohibiting a person from unlawfully influencing or affecting the outcome of a race, including rules relating to the use of a prohibited device or prohibited substance at a racetrack or training facility.
- (b) The commission may shall require prerace testing and shall require postrace testing to determine whether a prohibited substance has been used. The testing may be pre-race or post-race as determined by the commission. The testing may be by an invasive or noninvasive method. The commission's rules shall require state-of-the-art testing methods.

Revise Language Relating to the Timing of Submission of Fingerprints to DPS

Section 5.03 requires the Commission to submit fingerprints to the Department of Public Safety (DPS) or the Federal Bureau of Investigation (FBI) no later than the next day after receiving the prints. This amendment will address technology changes and ensure an adequate quality control over the fingerprint submission process.

Submitting the fingerprints the next day has never been practical as it does not allow anytime for the agency to do a quality control review. Additionally, the agency does not submit fingerprint cards directly to the FBI. Rather, DPS now submits electronically to the FBI for the agency. In 2003, in response to an internal audit finding regarding the need for increased quality control over the submission procedure, the agency, working with DPS, adopted a rule defining the ten business-day timeframe.

### DRAFT LANGUAGE

Sec. 5.03. Fingerprints.

- (a) An applicant for any license under this Act must submit to the commission a complete set of fingerprints of the individual natural person applying for the license or, if the applicant is not an individual natural person, a complete set of fingerprints of each officer or director and of each person owning an interest of at least five percent in the applicant. The Department of Public Safety may request any person owning any interest in an applicant to submit a complete set of fingerprints.
- (b) The commission shall, not later than the next day after receiving the prints, ten business days after the Commission receives the prints, forward the prints to the Department of Public Safety. The department shall classify the prints and check them against its fingerprint files and shall report to the commission its findings concerning the criminal record of the applicant or the lack of such a record. A racetrack license may not be issued until the report is made to the commission. A temporary occupational license may be issued before a report is made to the commission.
- (c) A peace officer of this or any other state, or any district office of the commission, shall take the fingerprints of an applicant for a license on forms approved and furnished by the Department of Public Safety and shall immediately deliver them to the commission.

# Delete Language Containing Expired Date Reference

This change would delete all pertinent sections containing an expired date reference.

### DRAFT LANGUAGE

### Sec. 6.091. Distribution of Deductions from Simulcast Pari-mutuel Pool.

(a) An association shall distribute from the total amount deducted as provided by Sections 6.08(a) and 6.09(a) of this Act from each simulcast pari-mutuel pool and each simulcast cross-species pool the following shares:

(1)

- (A) until January 1, 1999, an amount equal to 0.25 percent of each simulcast parimutuel pool and each simulcast cross-species simulcast pool as the amount set aside to reimburse the general revenue fund for amounts that are appropriated for the administration and enforcement of this Act and that are in excess of the cumulative amount of funds deposited in the Texas Racing Commission fund, until the excess amount and interest on the excess amount are fully reimbursed;
- (B) an amount equal to one percent of each simulcast pool as the amount set aside for the state: and
- (C) an amount equal to 1.25 percent of each cross-species simulcast pool as the amount set aside for the state;
- (2) an amount equal to 0.25 percent of each pool set aside to reimburse the general revenue fund for amounts that are appropriated for the administration and enforcement of this Act and that are in excess of the cumulative amount of funds deposited in the Texas Racing Commission fund, until the excess amount and interest on the excess amount are fully reimbursed;

# Authorize Background Check Fees for Ownership Transfers

The Act provides that each applicant for an original license must pay an application fee when submitting their application. By statute, the minimum fees range from \$1,500 for a class 4 racetrack to \$20,000 for a greyhound racetrack, and the Commission must set the application fees in amounts that are reasonable and necessary to cover its costs. As a result, the Commission's rules set the current fees for accepting a new racetrack application at a low of \$3,500 for a class 4 racetrack to a high of \$90,000 for a class 1 racetrack. A substantial portion of this fee is dedicated to reimbursing the Department of Public Safety for the cost of conducting a background check.

In the case of a transfer of ownership, the Act also requires the Commission to review a complete background check. However, it does not authorize the Commission to set or collect a similar fee that would cover the cost of the background check.

This amendment would authorize the Commission to establish a fee to cover the costs of background checks in the case of transfers of ownership.

#### DRAFT LANGUAGE

## § 6.13. Financial Disclosure.

- (a) The commission by rule shall require that each association holding a license for a class 1 racetrack, class 2 racetrack, or greyhound racetrack must annually file with the commission a detailed financial statement that:
- (1) contains the names and addresses of all stockholders, members and owners of any interest in the racetrack facility;
  - (2) indicates compliance during the filing period with Section 6.06 of this Act; and
  - (3) includes any other information required by the commission.
- (b) Each transaction that involves an acquisition or a transfer of a pecuniary interest in the association must receive prior approval from the commission. A transaction that changes the ownership of the association requires submission of updated information of the type required to be disclosed under Subsection (a) of Section 6.03 of this Act and payment of a fee to recover the costs of the background check.

commission in a position in the state employment classification plan of grade 12 or above, or any person related within the second degree by affinity or the third degree by consanguinity to such a member or employee, during the <u>one</u> two-year period immediately preceding the employment by the association.

- (b) A person may not seek or accept employment with an association if the association would violate this section by employing the person.
  - (c) An association or person who violates this section commits an offense.

# Delete Language Containing Expired Date Reference

This change would delete all pertinent sections containing an expired date reference.

#### DRAFT LANGUAGE

### Sec. 6.19. Reinstatement of Certain Licenses.

- (a) A class 2 racetrack license revoked by the commission before September 1, 1991, for the licensee's failure to demonstrate financial responsibility may be reinstated as provided by this section.
- b) A licensee to which this section applies must apply for reinstatement not later than January 1, 1992. The commission may not require the licensee to pay an application or renewal fee.
- (c) A county or nonprofit fair that desires to use any racetrack facilities constructed, used, or leased by a licensee to which this section applies, with the written consent of the licensee, may apply for reinstatement of the license as a class 3 racetrack license in the name of the county or nonprofit fair.
- (d) The commission shall reinstate the license and may not revoke or suspend the license before the second anniversary of the date that it is reinstated unless it finds that:
  - (1) material grounds that cannot be cured, other than the licensee's inability to demonstrate financial responsibility, exist for denial, revocation, or suspension of the license:
  - (2) the licensee is or has been the subject of a voluntary or involuntary proceeding under the Bankruptcy Code (Title 11 U.S.C.); or
  - (3) another person has obtained a racetrack license for the racetrack facility for which the licensee obtained the license.
- (e) A license reinstated under this section expires on the second anniversary of the date that it is reinstated. The commission shall convert a reinstated license to a perpetual license if the commission finds that, on the date the reinstated license will expire, construction or renovation of the racetrack proposed by the association has been financed.

of revenue is confected from this source.

Breakage: The Commission collects 50% of the breakage from greyhound wagering. 2% of revenue is collected from this source.

The agency's revenue that is derived from uncashed tickets and from the breakage has become too unreliable to remain as a major source of funding. This unreliability is attributable to two factors.

First, the general decline in wagering has reduced the dollar amounts available from both uncashed tickets and the breakage.

Second, innovations in betting technology, such as the increased e-wagering machines, have further reduced the number of uncashed tickets. The decreases resulting from these industry changes are occurring at an ever-increasing pace. Furthermore, the industry has the ability to further promote these new technologies at any given time, making the agency's projections of the amount of funding available from uncashed tickets inherently unreliable. While reducing the amount of money that patrons forfeit through uncashed tickets is clearly in the public's best interest, it is making obsolete this source of revenue to support Commission regulation.

To address these problems, the statute should be changed by:

- deleting the provision which requires the associations to pay uncashed tickets to the Commission;
- deleting the provision that allocates 50% of greyhound breakage to the Commission;
- adding clarifying language that requires the agency to, by rule, recover costs through fees for the regulation, oversight and licensing of racetracks including both live and simulcast racing.

The method of collecting uncashed ticket revenue is also problematic. The statute requires patrons to cash their pari-mutuel tickets within 60 days of the close of a race meeting. When the statute only authorized live race meets, patrons generally cashed their tickets at the end of each meet, and

to timely redeem their winning tickets because there is no easily identifiable deadline. The wagering public would benefit from a standard one-year expiration date for each pari-mutuel ticket.

Therefore, the statute should also be changed by:

• establishing that a pari-mutuel ticket expires 365 days after the date of purchase.

These changes would simplify the agency's funding structure by eliminating both the uncashed tickets and the greyhound breakage as a revenue source. Collection of revenue entirely through fees will provide a more consistent revenue stream and allow for improved planning and projections. The proposed changes would also serve the public interest by establishing a simpler, more understandable process for claiming winnings of uncashed tickets.

# Sec. 11.07. Outstanding Ticket and Voucher Claims After Race Meeting.

Delete subsection (a)

Insert new subsection (a)

- (a) A person who claims to be entitled to any part of a distribution from a pari-mutuel pool has until no later than the 365th day after the ticket was purchased to file with the association a claim for the money together with a substantial portion of the pari-mutuel ticket sufficient to identify the association, race, and horse or greyhound involved and sufficient to show the amount wagered and the type of ticket.
- (b) A person who claims to be entitled to money from a pari-mutuel voucher has until no later than the 365<sup>th</sup> day after the voucher was issued to file with the association a claim for the money together with a substantial portion of the pari-mutuel voucher sufficient to identify the association, the serial number, the date issued and the amount of the voucher.
- (b-c) If the claimant satisfactorily establishes a right to distribution from the pool, the association shall pay the amount due the claimant. If the association refuses to pay a claimant who has established satisfactorily a right to distribution from the pool, the claimant may appeal to the commission under procedures prescribed by commission rule.

Texas Racing Commission Title 16, Part VIII Chapter 303. General Provisions

The Texas Racing Commission readopts Title 16, Part 8, Chapter 303 of the Texas Administrative Code, with amendments to \$\$ 303.4, 303.31, 303.32, 303.94, and the chart following \$ 303.202(c). The rule review and proposed amendments were published in the November 3, 2006, edition of the Texas Register, and was conducted pursuant to Texas Government Code \$2001.039. The Commission has determined that the reasons for adopting the chapter continue to exist, with the proposed amendments. No comments were received on the rule review or the proposed rule amendments.

The adopted amendments relate to the conduct of Commission meetings, the extent of the Commission's regulatory authority, the rules for Arabian breeds under the Texas Bred Incentive Program, the types of occupational licenses that the Commission issues, and the types of criminal offenses that directly relate to specific occupational licenses.

The change to § 303.4 clarifies that the public is invited to comment at Commission meetings on any agenda item or issue that is under the jurisdiction of the Commission.

The change to § 303.31 clarifies that the Commission's authority to regulate race meetings extends to both live and simulcast race meetings. This change will be consistent with current agency practice.

The change to § 303.32 corrects a typographical error.

The change to § 303.94 is made to reflect the date of the current rules of the Texas Arabian Breeders Association.

The changes to the chart following § 303.202(c) delete the columns for the obsolete occupational licenses for "Chart Writer" and "Cool-Out." Chart Writers are now licensed as Association Staff. Cool-Outs are now licensed as Grooms at horse racetracks and as Kennel Helpers at greyhound racetracks. In addition, the changes now designate the offense of "Theft" as directly relating to the occupational licenses for Adoption Program Personnel, Announcers, Association Chaplains, and Medical Staff. The changes now also designate the offense of "Felony Driving While Intoxicated" as directly relating to the occupational licenses for Authorized Agents, Entry Clerks, Farrier/Plater/Blacksmith's Assistants, Tattooers, Tooth Floaters, and Veterinarian's Assistants.

Texas Racing Commission Title 16, Part VIII Chapter 303. General Provisions

### § 303.4. Meetings

- (a)-(e) (No change.)
- (f) The public is invited to comment regarding any agenda item or any issue under the jurisdiction of the Commission. Public comments may be limited to a reasonable number, frequency and length. All individuals wishing to address the Commission must sign a registration form and make their remarks under oath. All individuals addressing the Commission are subject to questioning by the Commission and the Commission staff.
- (g) (No change.)

### § 303.31. Regulation of Racing.

The Commission shall regulate each <u>live and simulcast</u> race meeting conducted in this state and supervise the operation of racetracks and the persons other than patrons who participate in a race meeting.

# § 303.32. Power of Entry.

- (a) (No change.)
- (b) An association or an officer, employee, or agent of an association may not refuse or deny a request to enter under this section and may not hinder a person who is conducting an investigation under or attempting to enforce or administer the Act or commission rules.

#### § 303.94. Arabian Horse Rules.

The Commission adopts by reference the rules of the Texas Arabian Breeders Association dated March 25, 2006 [June 23, 2002], regarding the administration of the Texas Bred Incentive Program for Arabian horses. Copies of these rules are available at the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711, or at the Commission office at 8505 Cross Park Dr., #110, Austin, Texas 78754-4594.

Texas Racing Commission Title 16, Part VIII Chapter 303. General Provisions

### § 303.202. Guidelines.

- (a)-(b) (No change.)
- (c) Based on the factors described in subsection (b) of this section, the commission has determined that the offenses described in subsection (a) of this section are directly related to the following occupational licenses. (An "X" on the chart means the offense directly relates to the license.)

# **GENERAL PROVISIONS**

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Offense for which fraud, dishonesty, or deceit is an essential element		x	x	Х		х	X	х		Х	Х	Х	Х
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	х	x	X	х	x	x	x	x	х	Х	x	x	х
Felony Assault	х	Х	х	х	Х	х	х	Х	х	Х	Х	Х	х
Criminal Homicide	Х	X	х	х	х	Х	х	х	х	Х	х	х	х
Burglary	Х	Х	Х	Х	х	х	X.	х	х	Х	Х	Х	Х
Robbery	· X	X	х	Х	X	,X	Х	х	х	Х	х	Х	х
Cruelty to Animals	×		X	Х			Х	Х	1	Х	Х	х	Х
Theft	Х	х	Х	Х	х	Х	Х	Х	х	х	х	х	х
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	X	x	x	x	x	х	X	х	x	x	x	х	х
Arson	Х	Х	Х	Х	х	Х	х	Х	Х	Х	х	x	х
Felony Driving While Intoxicated			х				Х	х		х	х	х	х

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Offense for which fraud, dishonesty, or deceit is an essential element	Х	х	х					х	Х		х	х	х	
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	х	x	х	х	x	x	x	х	×	x	х	x	×	
Felony Assault	х	Х	х	х	Х	Х	Х	Х	Х	Х	Х	Х	х	
Criminal Homicide	Х	Х	Х	х	х	х	х	х	Х	х	×	X	x	
Burglary	Х	Х	X	Х	Х	х	Х	х	х	Х	х	х	х	
Robbery	Х	Х	х	Х	Х	х	х	х	х	х	х	X	х	
Cruelty to Animals		Х		Х	Х	Х	Х	Х	Х	Х	х	Х	х	
Theft	Х	Х	Х	Х	Х	Х	Х	Х	Х	X	Х	Х	х	
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	x	x	x	x	х	x	x	х	х	Х	X	х	х	
Arson	Х	Х	Х	Х	Х	X	X	Х	Х	Х	Х	х	х	
Felony Driving While Intoxicated	Х	х	Х	Х	Х	Х	Х	х	х	Х	х	х	х	

# **CHAPTER 303**

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Offense for which fraud, dishonesty, or deceit is an essential element	х	Х	Х			Х	. <b>X</b>	Х	Х	X	Х		Х	X
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	x	х	х	Х	х	х	Х	х	X	X	X	x	х	X
Felony Assault	Х	Х	Х	X	Х	Х	Х	Х	Х	Х	Х	Х	Х	Х
Criminal Homicide	х	Х	Х	х	Х	х	Х	Х	Х	Х	Х	Х	Х	Х
Burglary	Х	Х	Х	Х	Х	Х	Х	х	X	Х	Х	Х	Х	Х
Robbery	х	Х	Х	Х	х	Х	Х	Х	X	Х	Х	X	Х	X
Cruelty to Animals	Х	Х	Х			Х			X	х	X	х	X	Х
Theft	Х	Х	x	Х	Х	Х	х	Х	х	х	Х	х	Х	х
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	x	х	x	x	X	х	×	x	×	x	х	х	x	x
Arson	X	х	Х	х	Х	X	Х	X	X	Х	X	X	Х	X
Felony Driving While Intoxicated	X	X		x	Х	Х			X	x	х	x		X

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Offense for which fraud, dishonesty, or deceit is an essential element	Х	Х	Х		X	Х	Х	Х	X	Х	Х	Х	X 
Offense under law of Texas or another state relating to racing, pari-mutuel wagering, gambling, or prostitution	×	x	x	×	X	x	х	х	Х	x	x	x	Х
Felony Assault	X	х	Х	Х	Х	х	Х	Х	Х	Х	Х	Х	Х
Criminal Homicide	Х	Х	Х	Х	Х	Х	X	Х	Х	X	Х	Х	Х
Burglary	Х	Х	Х	Х	Х	Х	х	Х	Х	X	Х	Х	X
Robbery	Х	Х	Х	Х	х	Х	Х	Х	Х	Х	Х	X	Х
Cruelty to Animals	X	Х	Х	Х	х	Х	Х				Х	X	X
Theft	Х	Х	Х	Х	х	Х	Х	Х	х	х	Х	X	Х
Possession, delivery, or manufacture of a controlled substance, dangerous drug, or abusable glue	x	х	х	х	х	X	х	x	x	х	х	×	х
Arson	х	х	Х	Х	Х	X	Х	X	X	X	Х	X	Х
Felony Driving While Intoxicated	Х	Х	Х	X	Х	Х	х				×	. X	X

TEXAS RACING COMMISSION
Title 16, Part VIII
Chapter 301. Definitions

The Texas Racing Commission proposes an amendment to <\*>301.1(b), to change the term "odds board" to "tote board", and amend the definition of race meeting.

#### 301.1 Definitions

- (a) (No change.)
- (b) (1) (46) (No change.)
- (47) <u>Tote</u> [Odds] board a facility at a racetrack that is easily visible to the public on which odds, payoffs, advertising, or other pertinent information is posted.
- (48) (49) (No change.)
- (59) Race meeting the specified period and dates each year during which an association is authorized to conduct racing and/or pari-mutuel wagering by approval of the Commission [a group of days on which horse or greyhound racing is conducted at a racetrack].
- (60) (90) (No change.)

Texas Racing Commission Title 16, Part VIII Chapter 319. Veterinary Practices and Drug Testing

The Texas Racing Commission proposes amendments to §§ 319.102, 319.111, 319.202, 319.203, 319.204, and 319.391. The Commission also proposes new § 319.108. These amendments are proposed in conjunction with the Commission's rule review of Chapter 319, conducted in accordance with Government Code, § 2001.039. The Commission has preliminarily determined that the reasons for adopting the above referenced sections continue to exist, with the proposed amendments.

The sections proposed for amendment relate to the veterinarian's list for race horses, Extracorporeal Shock Wave Therapy and Radial Pulse Wave Therapy, bleeders and the furosemide program, the veterinarian's list for greyhounds, kennel inspections, vaccination requirements for greyhounds, and drug testing of greyhounds.

The change to § 319.102 will clarify that, for the purpose of removing a horse from the veterinarian's list, the commission will accept the report of a satisfactory workout or examination conducted by a commission veterinarian employed by a pari-mutuel regulatory authority outside of Texas.

New § 319.108 regulates the use of Extracoporeal Shock Wave Therapy and Radial Pulse Wave Therapy. The provisions of this new rule are consistent with the provisions of the Association of Racing Commissioners International's model rule regarding these therapies.

The changes to § 319.111 accomplish five purposes.

First, \$ 319.111(a)(1) is amended by the insertion of the word "occurs." This is a technical correction only.

Second, the creation of new § 319.111(a)(2) provides an opportunity for a trainer to seek reconsideration of a commission veterinarian's diagnosis of an EIPH event.

Third, the changes to § 319.111(e) eliminate many of the barriers to removing a horse from the furosemide program. Under the rule as proposed, a trainer will only have to state his intent to race the horse without furosemide at the time he enters the horse into a race. In addition, a horse that competes out of state without furosemide is deemed to have been withdrawn from the furosemide program. These changes will align the requirements for withdrawing from the furosemide program to match the requirements for entering the program. In addition,

they will reduce paperwork and streamline the process for trainers of withdrawing horses from the furosemide program.

Fourth, the change to \$319.111(f)(2)\$ will correct a typographical error.

Finally, the changes to § 319.111(g) will clarify the minimum lengths of time that a horse will remain on the veterinarian's list after Exercise Induced Pulmonary Hemorrhage (EIPH) events. The changes to § 319.111(g) do not change the substance of the existing rule, but only present the rule in a format that is easier to understand.

The change to § 319.202(b) will provide additional flexibility to the commission veterinarian in notifying the responsible party for a kennel that the veterinarian is placing one of the kennel's greyhounds on the veterinarian's list. The current rule prescribes that the commission veterinarian should notify the kennel owner; however, in many cases, the owner has delegated the responsibility for day-to-day management of a kennel to the trainer. This rule amendment will provide the commission veterinarian with the flexibility of notifying either the owner or the trainer.

The changes to § 319.203 will distinguish between the types of monitoring and inspection efforts made by commission veterinarians at greyhound racetracks. The current rule includes both types of activities as part of the kennel inspection, which generally occurs on an annual or semi-annual basis. However, the commission veterinarians monitor the health and care of the greyhounds on a daily basis, and focus their kennel inspections on the physical infrastructure of the facilities. The proposed changes reflect the different natures of these efforts and the different timetables. In addition, the changes to § 319.203 specify how often kennels should be inspected. Only one of the state's three greyhound tracks offers seasonal race meets; the other two operate throughout the year. The amended rule will specify that year-round greyhound tracks will inspected semiannually, and that seasonal greyhound tracks will be inspected at the beginning of each race meet.

§ 319.204(c), which sets out the vaccination requirements for greyhounds, contains an ineffective reference to the rules of the Texas Animal Health Commission (TAHC). § 319.204(c) refers to the TAHC's rules governing greyhound health certificates, entry permits or veterinarian inspections. However, the TAHC has no

Sec. 319.102. Veterinarian's List.

- (a) The commission veterinarian shall maintain a veterinarian's list of the horses that are ineligible to start in a race due to physical distress, unsoundness, or infirmity. The test barn supervisor shall ensure that a current version of the veterinarian's list is posted daily in the racing office.
- (b) On a form prescribed by the executive secretary, the commission veterinarian shall notify the racing secretary and the trainer of a horse placed on the veterinarian's list as soon as practical after placing the horse on the list.
- (c) A horse that is placed on the veterinarian's list may not be removed from the list before the fourth day after the date the horse is placed on the list. A horse may be removed from the veterinarian's list only on demonstrating to the commission veterinarian that the horse is raceably sound and in fit physical condition to exert its best effort in a race.
- (d) Before removing a horse from the veterinarian's list, the commission veterinarian may require the horse to perform satisfactorily in a workout or qualifying race. Performance in such a workout or qualifying race must be conducted in accordance with § 319.3 of this title (relating to Medication Restricted). The commission veterinarian may require the collection of test specimens from a horse after a workout or race required under this subsection. If a specimen is collected under this subsection, the commission veterinarian may not remove the horse from the veterinarian's list until the results of the test are negative.
- (e) A workout for or an examination by a commission veterinarian in any pari-mutuel jurisdiction will be recognized for the purposes of removing a horse from the veterinarian's list.

### Sec. 319.108. Extracorporeal Shock Wave Therapy

The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

- (a) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be registered with and approved by the Commission or its designee before use;
- (b) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the Commission;
- (c) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported to the commission veterinarian or the commission veterinarian's designee on the prescribed form within 24 hours; and
- (d) Any treated horse shall be on the veterinarian's list for 10 days following treatment.

racing in this state shall report the event to the commission veterinarian in a format prescribed by the executive secretary. On receipt of the first report of a diagnosed EIPH event for a horse, the commission veterinarian shall certify the horse as a bleeder.

- (2) A trainer may request that a commission veterinarian reconsider the commission veterinarian's diagnosis of an EIPH event by presenting the horse for re-examination within four hours of the initial diagnosis, or within one hour after a performance's last race, whichever occurs sooner. To receive reconsideration, the trainer must present the horse to the commission veterinarian for endoscopic examination as performed by a commission-licensed veterinarian.
- (b) Admission to Furosemide Program.
- (1) A trainer may admit a horse to the furosemide program by stating at time of entry that the horse will compete with furosemide.
- (2) A horse that competed with furosemide in its most recent start out-of-state must compete on furosemide in Texas unless withdrawn from the furosemide program at time of entry.
- (3) An EIPH event experienced by a horse that is admitted to the furosemide program is deemed to be a second EIPH event for purposes of Subsection (g) of this section.
- (c) Administration of Furosemide.

Furosemide shall be administered to a horse in the furosemide program not later than four hours before the published post time for the race the horse is entered to run. The furosemide must be administered intravenously by a veterinarian licensed by the Commission. The executive secretary shall periodically publish the permissible blood levels of furosemide in post-race specimens and shall post the levels at each licensed racetrack.

(d) Requirement to Use Furosemide.

A horse in the furosemide program in Texas must compete with furosemide until withdrawn from the program.

- (e) Withdrawal from Furosemide Program.
- (1) To withdraw a horse from the furosemide program, the trainer must state his/her intention to race the horse without furosemide at the time of entry.

apply to the commission veterinarian. The commission veterinarian may require a signed medical statement from the trainer's regular practicing veterinarian that it is in the horse's best interest to be withdrawn from the furosemide program. The commission veterinarian may also request any other additional information the commission veterinarian needs to justify removal of the horse from the furosemide program. A withdrawal request and all accompanying information must be reviewed and a decision rendered by the commission veterinarian as soon as practicable.

- (2) A horse in the furosemide program that competes out-of-state without furosemide is considered to have been removed from the Texas furosemide program effective the date of its first race without furosemide. [may not compete without furosemide until its withdrawal from the program has been approved by the commission veterinarians.]
- $\underline{(3)}$  Withdrawal from the furosemide program does not prohibit a horse from subsequent readmission to the program in accordance with this section.
- (f) Readmission to the Furosemide Program.
- A horse may be readmitted to the furosemide program if:
- (1) at least 60 days have elapsed since the horse was withdrawn from the program;
- (2) the horse is required to compete with furosemide pursuant to subsection  $(\underline{b[a]})$  (2) of this section; or
- (3) the commission veterinarian diagnoses the horse with another EIPH event.
- (q) Bleeders List.
- (1) The commission veterinarian shall maintain a list of horses that have been certified as bleeders and a list of horses that have been admitted to the furosemide program.
- (2) On receipt of a report of a diagnosed EIPH event, the commission veterinarian shall place the horse on the veterinarian's list and the horse shall be ineligible to race for the following time periods:

First incident - 12 days;

Second incident within 365 days of previous incident - 30 days; Third incident within 365 days of previous incident - 180 days; Fourth incident within 365 days of previous incident - lifetime ban from racing in this state.

[For the first diagnosed EIPH event, a horse shall be placed on the veterinarian's list and is incligible to start in a race

before the 12th day after the date of the EIPH event. For the second diagnosed EIPH event, a horse shall be placed on the veterinarian's list and is ineligible to start in a race before the 30th day after the date of the second EIPH event. For the third diagnosed EIPH event, a horse shall be placed on the veterinarian's list and is ineligible to start in a race before the 180th day after the date of the third EIPH event. For the fourth diagnosed EIPH event, a horse is barred from pari-mutuel racing in this state.]

- (3) A horse with fewer than four EIPH events that has not had a diagnosed EIPH event for a period of 365 consecutive days is considered a non-bleeder for purposes of this [paragraph] subsection. The report of a diagnosed EIPH event from any parimutuel jurisdiction which officially records EIPH events will be recognized as an EIPH event by the Commission.
- (4[3]) Notwithstanding the foregoing, if after reviewing a report of a diagnosed EIPH event the commission veterinarian determines additional days on the veterinarian's list are essential to the health and safety of the horse, the commission veterinarian may extend the number of days the horse is on the veterinarian's list. The commission veterinarian shall record the medical reasons for the additional days.
- (h) Report by Veterinarian.

A veterinarian who administers furosemide to a horse that has been admitted to the furosemide program shall report the administration on a form prescribed by the Commission. A report made under this subsection must be filed with the test barn supervisor not later than one hour before post time for the first race of that day.

- infirmity. The commission veterinarian shall ensure that the veterinarian's list is posted in a conspicuous place available to all kennel owners, trainers, and officials.
- (b) The commission veterinarian shall notify the kennel owner or trainer of a greyhound placed on the veterinarian's list not later than 24 hours after placing the greyhound on the list.
- (c) A greyhound on the veterinarian's list may be removed from the list only on demonstrating to the commission veterinarian that the greyhound is raceably sound and in fit physical condition to exert its best effort in a race.
- (d) A greyhound on the veterinarian's list may not enter a race before the third day after the day the greyhound was placed on the list. The commission veterinarian may require a greyhound to school after being examined and removed from the list before the greyhound may enter a race.
- (e) Each lactating bitch and each bitch in season or coming in season during a race meeting shall be placed on the veterinarian's list and may not enter a race until the greyhound has been re-examined by the commission veterinarian and removed from the veterinarian's list. A bitch in season may not be re-examined before the 21st day after the day the greyhound was placed on the veterinarian's list.
- (f) A trainer shall submit to the commission veterinarian, on a form prescribed by the executive secretary, documentation of any racing-related injury sustained by a greyhound in the trainer's care.

### Sec. 319.203. Condition of Greyhounds and Inspection of Kennels.

- (a) To ensure the health and safety of each greyhound, the commission veterinarian shall monitor the condition of the greyhounds and inspect each kennel on association grounds where greyhounds are housed.
- (b) On each race day, the commission veterinarian shall monitor the condition of the greyhounds. Factors the commission veterinarian shall evaluate include, but are not limited to:
- (1) the general physical condition of the greyhounds;
- (2) the general manner of handling the greyhounds;
- (3) the management of bitches in season;
- (4) the management of sick greyhounds;
- (5) the medication in use; and
- (6) the presence of ectoparasites.
- (c) If the commission veterinarian determines that an unsatisfactory condition exists, the veterinarian shall advise the kennel owner or trainer of the unsatisfactory condition. If the unsatisfactory condition persists, or if the unsatisfactory condition requires immediate corrective action, the commission veterinarian shall advise the kennel owner or trainer of the unsatisfactory condition and shall report the condition to the judges.
- (d) At tracks that operate year-round, the commission veterinarian shall conduct kennel inspections semi-annually as directed by the executive secretary. At tracks that do not operate year-round, the commission veterinarian shall conduct a kennel inspection at the beginning of each race meet.
- $(\underline{e}\underline{b})$  The commission veterinarian shall file a written report on each inspection with the executive secretary, on a prescribed form. The report must include, but is not limited to, a statement of the kennel conditions or practices regarding:
- (1) the general physical condition of the greyhounds;
- (2) the general manner of handling the greyhounds;
- (13) the food and food storage;
- (24) the sanitary conditions of the kennels;
- (5) management of bitches in season;
- (6) management of sick greyhounds;
- (7) the medication in use;
- (8) presence of ectoparasites; and]
- (4) the maintenance of the kennel buildings;
- (5) the maintenance of the turnout pens;
- (6) the maintenance of the sprint path;
- (7) the maintenance of the lockout kennel;
- (8) the maintenance of the paddock area; and

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(9) other matters that the commission veterinarian considers necessary for corrective action by the kennel owner or the association.

- the association must be approved by the commission veterinarian.
- (b) The association shall maintain records of vaccinations of the greyhounds housed at its facility and make the records available to the commission veterinarian on request.
- (c) The association may not permit a greyhound to enter its grounds unless the trainer or kennel owner of the greyhound provides to the association proof of the necessary vaccinations and has a health certificate, entry permit or veterinarian inspection [pursuant to the rules of the Texas Animal Health Commission].

- association's live races.
- (b) Live Racing Fee. An association shall pay a live racing fee for each live race day conducted by the association. The fee is due to the Commission no later than 5:00 p.m. of the day following the race day. The executive secretary may waive a live racing fee for a day or performance if circumstances beyond the control of the association cause a live race day or performances to be cancelled.
  - (1) The live racing fee for a greyhound racing association is \$1,100 \$550 for each performance that is scheduled for five or more races. For a performance that is scheduled for fewer than five races, the live racing fee is \$90 \$45 per scheduled race.
  - (2) The live racing fee for a horse racing association is as follows for each race day that is scheduled for thirteen or less races. For each additional race scheduled over thirteen an additional \$200 will be added to the live racing fee:.
  - (A) for a Class 1 or Class 2 racetrack, \$2075 per day;
    - (B) for a Class 3 or Class 4 racetrack, \$650 per day.
    - (A) for a Class 1 racetrack, \$2,500 per race day;
    - (B) for a Class 2 racetrack, \$1,750 per race day;
    - (C) for a Class 3 racetrack, \$1,000 per race day; and
    - (D) for a Class 4 racetrack, \$750 per race day.

#### (c) Annual License Fee:

- (1) Active License Fee. An association that is licensed and that is conducting live racing or simulcasting shall pay an annual active license fee. The fee is due to the Commission on April 16, 2007 for the State fiscal year ending August 31, 2007 and for each subsequent year thereafter will be due on September 1<sup>st</sup> of each fiscal year. The active license fee for a greyhound racing association is \$25,000. The active license fee for a horse racing association is:
  - (A) for a Class 1 racetrack, \$25,000;
  - (B) for a Class 2 racetrack, \$15,000;
  - (C) for a Class 3 racetrack, \$5,000; and
  - (D) for a Class 4 racetrack, \$2,500.

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- (2) Inactive License Fee. An association that is licensed but is not conducting live racing or simulcasting shall pay an inactive license fee. The fee is due to the Commission on September 1 of each year. The inactive license fee for a greyhound racing association is \$125,000 \$25,000. The inactive license fee for a horse racing association is:
  - (1) for a Class 1 racetrack, \$125,000 \$25,000;
  - (2) for a Class 2 racetrack, \$75,000 \$20,000;
  - (3) for a Class 3 racetrack, \$25,000 \$3,500; and
  - (3) for a Class 4 racetrack, \$12,500 \$1,250.
- (d) Simulcast Fee. An association shall pay a simulcast fee for each day on which the association offers a simulcast race for wagering. The fee is due to the Commission no later than 5:00 p.m. of the day following the day on which the simulcast is offered. The simulcast fee is:
  - (1) for a Class 1, Class 2, or greyhound racetrack, \$410 per day; and
  - (2) for a Class 3 or Class 4 racetrack, \$300 per day.
  - (e) Adjustment of Fees.
    - (1) After the end of the Commission's fiscal year, the executive secretary shall determine whether the total amount of the fees paid by all associations, together with the revenues received by the Commission from all other sources, excluding occupational license fees, is sufficient to pay the Commission's costs to administer and enforce the Act and to provide racing officials for the association's live races.
    - (2) If the executive secretary determines the total revenue from those sources is insufficient to pay those costs, the executive secretary shall recommend a revised fee structure to the Commission that will generate the necessary revenue.
    - (3) If the executive secretary determines the total revenue from those sources exceeds the amount needed to pay those costs, the executive secretary may order a moratorium on any or all license fees to any or all of the associations. Before entering a moratorium order, the executive secretary shall develop a formula for providing the moratorium in an equitable manner among the associations. In developing the formula, the executive secretary shall consider the amount of excess revenue received by the Commission, the source of the revenue, the Commission's costs associated with regulating each association, the Commission's projected receipts for the next fiscal year, and the Commission's projected expenses during the next fiscal year.
- (f) Breeders' Cup Fee. Due to the additional travel, personnel, and drug testing costs incurred by the Commission in

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conjunction with regulating the Breeders' Cup races, an association that conducts the Breeders' Cup races shall pay a fee of \$10,000. The fee is due not later than 5:00 p.m. on the 30th day after the date the Breeders' Cup races are conducted.

#### Draft of Alternative Plan: A

## Sec. 309.8. Racetrack License Fees.

- (a) Purpose of Fees. An association shall pay a license fee to the Commission to pay the Commission's costs to administer and enforce the Act and provide racing officials for the association's live races.
- (b) Live Racing Fee. An association shall pay a live racing fee for each live race day conducted by the association. The fee is due to the Commission no later than 5:00 p.m. of the day following the race day. The executive secretary may waive a live racing fee for a day or performance if circumstances beyond the control of the association cause a live race day or performances to be cancelled.
  - (1) The live racing fee for a greyhound racing association is \$1,250 \$550 for each performance that is scheduled for five or more races. For a performance that is scheduled for fewer than five races, the live racing fee is \$100 \$45 per scheduled race.
  - (2) The live racing fee for a horse racing association is:
  - (A) for a Class 1 or Class 2 racetrack, \$2,875 \$2075 per day; and
  - (B) for a Class 2  $\frac{3}{2}$  or Class  $\frac{4}{2}$  racetrack,  $\frac{$2,250}{$650}$  per day: And
  - (C) for a Class 3 or 4 racetrack, \$1,625 per race day.
- (c) Inactive License Fee. An association that is licensed but is not conducting live racing or simulcasting shall pay an inactive license fee. The fee is due to the Commission on September 1 of each year. The inactive license fee for a greyhound racing association is \$125,000 \cdot \frac{\$25,000}{.}\$ The inactive license fee for a horse racing association is:
  - (1) for a Class 1 racetrack, \$125,000 \$25,000;
  - (2) for a Class 2 racetrack, \$75,000 \$20,000; and
  - (3) for a Class 3 & 4 racetrack, \$25,000 \$3,500; and.
  - (3) for a Class 4 racetrack, \$1,250.
- (d) Simulcast Fee. An association shall pay a simulcast fee for each day on which the association offers a simulcast race for wagering. The fee is due to the Commission no later than 5:00 p.m. of the day following the day on which the simulcast is offered. The simulcast fee is:
  - (1) for a Class 1, Class 2, or greyhound racetrack, \$410 per day; and
  - (2) for a Class 3 or Class 4 racetrack, \$300 per day.
  - (e) Adjustment of Fees.
    - (1) After the end of the Commission's fiscal year, the executive secretary shall determine whether the total

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> amount of the fees paid by all associations, together with the revenues received by the Commission from all other sources, excluding occupational license fees, is sufficient to pay the Commission's costs to administer and enforce the Act and to provide racing officials for the association's live races.

- (2) If the executive secretary determines the total revenue from those sources is insufficient to pay those costs, the executive secretary shall recommend a revised fee structure to the Commission that will generate the necessary revenue. (3) If the executive secretary determines the total revenue from those sources exceeds the amount needed to pay those costs, the executive secretary may order a moratorium on any or all license fees to any or all of the associations. Before entering a moratorium order, the executive secretary shall develop a formula for providing the moratorium in an equitable manner among the associations. In developing the formula, the executive secretary shall consider the amount of excess revenue received by the Commission, the source of the revenue, the Commission's costs associated with regulating each association, the Commission's projected receipts for the next fiscal year, and the Commission's projected expenses during the next fiscal year.
- (f) Breeders' Cup Fee. Due to the additional travel, personnel, and drug testing costs incurred by the Commission in conjunction with regulating the Breeders' Cup races, an association that conducts the Breeders' Cup races shall pay a fee of \$10,000. The fee is due not later than 5:00 p.m. on the 30th day after the date the Breeders' Cup races are conducted.

#### Draft of Alternative Plan: B

#### Sec. 309.8. Racetrack License Fees.

- (a) Purpose of Fees. An association shall pay a license fee to the Commission to pay the Commission's costs to administer and enforce the Act and provide racing officials for the association's live races.
- (b) Live Racing Fee. An association shall pay a live racing fee for each live race day conducted by the association. The fee is due to the Commission no later than 5:00 p.m. of the day following the race day. The executive secretary may waive a live racing fee for a day or performance if circumstances beyond the control of the association cause a live race day or performances to be cancelled.
  - (1) The live racing fee for a greyhound racing association is \$550 for each performance that is scheduled for five or more races. For a performance that is scheduled for fewer than five races, the live racing fee is \$45 per scheduled race.
  - (2) The live racing fee for a horse racing association is:
  - (A) for a Class 1 or Class 2 racetrack, \$2075 per day; and
  - (B) for a Class 3 or Class 4 racetrack, \$650 per day.

### (c) Annual License Fee:

- (1) Active License Fee for State Fiscal Year Ending August 31, 2007. An association that is licensed and that is conducting live racing or simulcasting shall pay an annual active license fee. The fee is due to the Commission on April 16, 2007 for the State fiscal year ending August 31, 2007. The active license fee for a greyhound racing association is \$115,000. The active license fee for a horse racing association is:
  - (A) for a Class 1 racetrack, \$27,500;
  - (B) for a Class 2 racetrack, \$15,000; and
  - (C) for a Class 3 or 4 racetrack, \$5,000.
- (2) Active License Fee for State Fiscal Years Beginning Sept. 1, 2007 and there after. An association that is licensed and that is conducting live racing or simulcasting shall pay an annual active license fee. The fee is due to the Commission on September 1<sup>st</sup> of each State fiscal year. The active license fee for a greyhound racing association is \$175,000. The active license fee for a horse racing association is:
  - (A) for a Class 1 racetrack, \$45,000;
  - (B) for a Class 2 racetrack, \$15,000; and
  - (C) for a Class 3 or 4 racetrack, \$5,000.
- (3) Inactive License Fee. An association that is licensed but is not conducting live racing or simulcasting shall pay an

inactive license fee. The fee is due to the Commission on September 1 of each year. The inactive license fee for a greyhound racing association is \$125,000 \$25,000. The inactive license fee for a horse racing association is:

- (1) for a Class 1 racetrack, \$125,000 <del>\$25,000</del>;
- (2) for a Class 2 racetrack, \$75,000 \$20,000; and
- (3) for a Class 3 or 4 racetrack, \$25,000 \$3,500.; and
- (3) for a Class 4 racetrack, \$1,250.
- (d) Simulcast Fee. An association shall pay a simulcast fee for each day on which the association offers a simulcast race for wagering. The fee is due to the Commission no later than 5:00 p.m. of the day following the day on which the simulcast is offered. The simulcast fee is:
  - (1) for a Class 1, Class 2, or greyhound racetrack, \$410 per day; and
  - (2) for a Class 3 or Class 4 racetrack, \$300 per day.
  - (e) Adjustment of Fees.
    - (1) After the end of the Commission's fiscal year, the executive secretary shall determine whether the total amount of the fees paid by all associations, together with the revenues received by the Commission from all other sources, excluding occupational license fees, is sufficient to pay the Commission's costs to administer and enforce the Act and to provide racing officials for the association's live races.
    - (2) If the executive secretary determines the total revenue from those sources is insufficient to pay those costs, the executive secretary shall recommend a revised fee structure to the Commission that will generate the necessary revenue.
    - (3) If the executive secretary determines the total revenue from those sources exceeds the amount needed to pay those costs, the executive secretary may order a moratorium on any or all license fees to any or all of the associations. Before entering a moratorium order, the executive secretary shall develop a formula for providing the moratorium in an equitable manner among the associations. In developing the formula, the executive secretary shall consider the amount of excess revenue received by the Commission, the source of the revenue, the Commission's costs associated with regulating each association, the Commission's projected receipts for the next fiscal year, and the Commission's projected expenses during the next fiscal year.
- (f) Breeders' Cup Fee. Due to the additional travel, personnel, and drug testing costs incurred by the Commission in conjunction with regulating the Breeders' Cup races, an association that conducts the Breeders' Cup races shall pay a

fee of \$10,000. The fee is due not later than 5:00 p.m. on the 30th day after the date the Breeders' Cup races are conducted.

### Draft of Alternative Plan: C

### Sec. 309.8. Racetrack License Fees.

- (a) Purpose of Fees. An association shall pay a license fee to the Commission to pay the Commission's costs to administer and enforce the Act and provide racing officials for the association's live races.
- (b) Live Racing Fee. An association shall pay a live racing fee for each live race day conducted by the association. The fee is due to the Commission no later than 5:00 p.m. of the day following the race day. The executive secretary may waive a live racing fee for a day or performance if circumstances beyond the control of the association cause a live race day or performances to be cancelled.
  - (1) The live racing fee for a greyhound racing association is \$550 for each performance that is scheduled for five or more races. For a performance that is scheduled for fewer than five races, the live racing fee is \$45 per scheduled race.
  - (2) The live racing fee for a horse racing association is:
  - (A) for a Class 1 or Class 2 racetrack, \$2075 per day; and
  - (B) for a Class 3 or Class 4 racetrack, \$650 per day.

# (c) Annual License Fee:

- (1) Active License Fee for State Fiscal Year Ending August 31, 2007. An association that is licensed and that is conducting live racing or simulcasting shall pay an annual active license fee. The fee is due to the Commission on April 16, 2007 for the State fiscal year ending August 31, 2007. The active license fee for a greyhound racing association is \$80,000. The active license fee for a horse racing association is:
  - (A) for a Class 1 racetrack, \$27,500;
  - (B) for a Class 2 racetrack, \$15,000; and
  - (C) for a Class 3 or 4 racetrack, \$5,000.
- (2) Active License Fee for State Fiscal Years Beginning Sept. 1, 2007 and there after. An association that is licensed and that is conducting live racing or simulcasting shall pay an annual active license fee. The fee is due to the Commission on September 1<sup>st</sup> of each State fiscal year. The active license fee for a greyhound racing association is \$175,000. The active license fee for a horse racing association is:
  - (A) for a Class 1 racetrack, \$45,000;
  - (B) for a Class 2 racetrack, \$15,000; and
  - (C) for a Class 3 or 4 racetrack, \$5,000.
- (3) Inactive License Fee for State Fiscal Year Ending August 31, 2007. An association that is licensed but is not conducting live racing or simulcasting shall pay an inactive

license fee. The fee is due to the Commission on April 16, 2007 for the State fiscal year ending August 31, 2007. The inactive license fee for a greyhound racing association is \$125,000. The inactive license fee for a horse racing association is:

- (A) for a Class 1 racetrack, \$125,000;
- (B) for a Class 2 racetrack, \$55,000; and
- (C) for a Class 3 or 4 racetrack, \$25,000.
- (4) Inactive License Fee for State Fiscal Years Beginning Sept 1, 2007 and there after. An association that is licensed but is not conducting live racing or simulcasting shall pay an inactive license fee. The fee is due to the Commission on September 1 of each year. The inactive license fee for a greyhound racing association is \$125,000 \\$25,000. The inactive license fee for a horse racing association is:
  - $(\frac{1}{4}A)$  for a Class 1 racetrack, \$125,000 \(\frac{\$25,000}{};\)
  - (2B) for a Class 2 racetrack, \$75,000 \$20,000; and
  - (3C) for a Class 3 or 4 racetrack, \$25,000 \$3,500.
  - (3) for a Class 4 racetrack, \$1,250.
- (d) Simulcast Fee. An association shall pay a simulcast fee for each day on which the association offers a simulcast race for wagering. The fee is due to the Commission no later than 5:00 p.m. of the day following the day on which the simulcast is offered. The simulcast fee is:
  - (1) for a Class 1, Class 2, or greyhound racetrack, \$410 per day; and
  - (2) for a Class 3 or Class 4 racetrack, \$300 per day.
  - (e) Adjustment of Fees.

and

- (1) After the end of the Commission's fiscal year, the executive secretary shall determine whether the total amount of the fees paid by all associations, together with the revenues received by the Commission from all other sources, excluding occupational license fees, is sufficient to pay the Commission's costs to administer and enforce the Act and to provide racing officials for the association's live races.
- (2) If the executive secretary determines the total revenue from those sources is insufficient to pay those costs, the executive secretary shall recommend a revised fee structure to the Commission that will generate the necessary revenue.
- (3) If the executive secretary determines the total revenue from those sources exceeds the amount needed to pay those costs, the executive secretary may order a moratorium on any or all license fees to any or all of the associations. Before entering a moratorium order, the executive secretary

conjunction with regulating the Breeders' Cup races, an association that conducts the Breeders' Cup races shall pay a fee of \$10,000. The fee is due not later than 5:00 p.m. on the 30th day after the date the Breeders' Cup races are conducted.

The Texas Racing Commission proposes amendments to §§ 321.29, 321.33, and 321.43. The Commission also proposes new § 321.2. These amendments are proposed in conjunction with the recommendations from the Pari-Mutuel Advisory Committee.

The sections proposed for amendment relate to mutuel tickets, expiration dates, and cancellation of wagers.

The addition of new rule § 321.2 makes the intentional manipulation of Odds and Will Pays a practice that is inconsistent with the honesty and integrity of racing. The purpose of the rule addition is to prevent the dissemination of false information to the wagering public.

The change to § 321.29 requires an expiration date to be printed on the face of the pari-mutuel ticket, enabling the betting patron to easily discern the expiration date of the ticket. This change will assist the betting patron by showing how long the ticket will be valid.

The change to § 321.33 will require an association to print the expiration date on the face of a pari-mutuel ticket. This change will assist the betting patron by showing how long the ticket will be valid.

The change to § 321.43 will allow the cancellation of wagers on self-serve machines. In order to allow cancellations, an association must first establish written policies detailing the procedures the association will use in permitting the cancellation of wagers. The written policies must be approved by the executive secretary prior to implementation. This change will facilitate the cancellation of pari-mutuel wagers at self-serve machines by the patron.

# Sec. 321.2 Odds Manipulation

The Commission recognizes that the wagering public uses Odds and Will Pays as a handicapping tool. To maintain the integrity of the pools, the Commission therefore identifies the practice of canceling wagers that were placed for the sole purpose of manipulating the posted Odds or Will Pays as being inconsistent with the honesty and integrity of racing under § 307.7, Ejection and Exclusion, and as a detrimental practice under § 309.9, Denial, Suspension and Revocation of Licenses.

# Sec. 321.29. Mutuel Tickets.

Each mutuel ticket issued must have printed on its face:

- (1) the name of the racetrack facility where the wager was placed;
- (2) the name of the racetrack where the race was conducted;
- (3) the number of the race;
- (4) the unique computer-generated ticket number;
- (5) the date the ticket was issued;
- (6) the date of the race for which the ticket was issued;
- (7) the number of the ticket-issuing machine;
- (8) the type of pool;
- (9) the number of each entry on which the wager was placed; and
- (10) the dollar amount of the wager; and
- (11) the expiration date of the ticket.

# Sec. 321.33. Expiration Date.

- (a) Due to the year-round nature of simulcasting and the state's fiscal year, the Commission finds a need to establish a "mutuel year" for purposes of expiration of mutuel tickets and the collection of revenue from outstanding tickets pursuant to the Act, § 11.08. The mutuel year begins on August 1 and ends on July 31.
- (b) A mutuel ticket:
- (1) expires on the 60th day after the last day of the mutuel year in which the ticket was purchased; and
- (2) may not be cashed by an association after the expiration date for any reason.
- (c) A voucher has no expiration date.
- (d) The expiration date of the wager must be printed on the face of a pari-mutuel ticket.

# Sec. 321.43. Cancellation of Win Wagers.

- (a) An association may not cancel a win wager for more than \$500 on any live or simulcast race offered for wagering by the association, unless:
- (1) the patron requests to cancel the wager before the patron leaves the teller's window and before the ticket-issuing machines are locked; or
- (2) the stewards or racing judges order the wager to be canceled because of a scratch in the race.
- (b) If a patron desires to cancel a wager that is on the same mutuel ticket as a win wager that may not be canceled under this section, the association may cancel the ticket but must immediately replace the win wager that was on the ticket.
- (c) An association shall post a notice by each automatic ticket-issuing machine that states that a win wager for more than \$500 may not be canceled except if the stewards or racing judges order the wager to be canceled because of a scratch in the race.
- (d) An association may adopt a house policy regarding the cancellation of win wagers that is more restrictive than this section, subject to the approval of the executive secretary.
- (e) The cancellation of wagers on self-serve wagering machines shall not be permitted except in accordance with the written policies established by the association and approved by the executive secretary.
- (f) The mutuel manager shall be responsible for controlling all canceled wagers and ensuring that the association complies with the rules of this section.



November 27, 2006

Via Facsimile & U. S. Mail

Ms. Charla Ann King
Executive Secretary
Texas Racing Commission
P. O. Box 12080
Austin, TX 78711

Dear Ms. King:

Gulf Greyhound Park requests the following item be placed on the agenda for the December 14, 2007 Texas Racing Commission meeting:

Request to modify 2007 live racing schedule.

The budget year for Gulf Greyhound Park begins on January 1. At our department director budget planning meeting for 2007 held in October, we determined that due to financial constraints, we will not be able to run the same performance schedule as 2006. The Tuesday and Wednesday evening performances are not profitable; therefore, we are requesting to cancel those two (2) performances. Because of the rotation of the greyhounds, we also are requesting to move the Friday Matinee performance to a Wednesday Matinee performance. Every performance will be a 13 race card, and we also request to add abbreviated performances consisting of 2 races to the Thursday, Friday and Saturday evening performances. This schedule will consist of 88 races for the week as opposed to the 2006 approved schedule of 104 races per week. I am e-mailing Gulf Greyhound Park's proposed 2007 racing calendar to your office.

However, after receiving your letter of November 22 addressing the increase of race day fees and the new annual license fee, I am very concerned about the possibility of even being able to run this proposed schedule. Three years ago, Gulf Greyhound Park

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made the decision to close the 4th floor Horizon Clubhouse which sat approximately 1800 people. Unfortunately attendance was not enough to warrant the cost of maintaining and staffing that large area. We remodeled the 2<sup>nd</sup> floor and made the south end of that floor the Terrace Clubhouse which seats approximately 750 people. The utility costs (lights and air conditioning) and staffing that we were able to save by accomplishing this allowed us to operate in a more efficient manner. Two years ago, we began looking for ways to cut costs and made the decision to close the 2<sup>nd</sup> floor on Tuesday and Wednesday evenings. Again, the utility and labor costs we saved allowed us to remain viable. In 2002, we had approximately 740 employees on staff. Today we have 319 and I am very proud to say that we have not laid off any employees - we have merely not replaced employees who resigned or were terminated. We have had a hiring freeze for the last 2 years and department directors have absorbed duties of supervisors so we would not have to have additional labor costs. We have reviewed every cost in our budget to determine what could be done to "make ends meet." We operate with 14 kennels and always consider how any change will affect our kennel owners and greyhound owners before such a change is adopted. Our employees no longer receive a bonus at the end of the year and most have not received any increase in pay for the last few years. We have managed to run our operation with a "skeleton" crew and yet are able to serve our customers in a positive manner.

Since you and I have discussed on numerous occasions the dire financial conditions of the racing industry in Texas, I was completely overwhelmed when I began reading your letter of November 22. I am at a complete loss as to how the Texas Racing Commission thinks we can afford such extravagant additions to an already constrained situation. The last fee increase Gulf Greyhound Park had (simulcast fee), the Texas Racing Commission had meetings to discuss the issue and Gulf Greyhound Park was able to give input into the reasoning of why or why not to increase and how to handle such increases. This year, the Texas Racing Commission did not have meetings or if they did, Gulf Greyhound Park was not included. Our budget for 2006 for live race day fees is \$237,430 and if the Texas Racing Commission "staff recommendation" is adopted by the Commissioners (which doubles the current live race day fees), Gulf Greyhound Park's live race day fees will increase to \$390,000 plus the new annual active license fee of \$25,000 - or \$415,000 or approximately \$177,570 more than 2006. The Texas Racing Commission Alternate Plan A of more than doubling the fees but not including an annual active license fee will cost Gulf Greyhound Park \$442,000 or approximately \$204,570 more than 2006 and the Texas Racing Commission Alternate Plan B which does not increase the live race day fees but adopts a \$175,000 annual active license fee will cost Gulf Greyhound Park \$370,000 or approximately \$132,570 more than 2006.

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I do not understand why the greyhound tracks live race day fees have doubled (100% increase) while the Class I horse tracks fees only go up 20%, Class II horse tracks decrease 16% and class III horse tracks increase 54%. This appears to be unfair since the Texas Racing Commission has a much greater cost in regulating horse tracks, i.e. personnel, than they do regulating greyhound racing. By allowing Retama Park to not have a Thoroughbred meet next year and having Sam Houston pick up only 12 of those days, at the current fee structure this is costing the Texas Racing Commission \$80,925 in 2007. As a representative of Gillespie County Fair Association, Gulf Greyhound Park's employee, Scott Sherwood, has attended several meetings during the last several months regarding live race dates for the horse tracks. There was constant discussion about purses going down, shortage of horses, increasing costs, inequities in the breed splits, etc. Since the Texas Racing Commission office seemed to be satisfied with only one meeting to discuss live race dates for the greyhound tracks, it appears that the "squeaky wheel gets the grease" in this situation because looking at these fees, Gulf Greyhound Park sees sympathy for the horse tracks and it seems the greyhound tracks will pick up the costs. Scott also attended a meeting to review two analgesic drugs for the horsemen. If these medications are approved this will increase the drug testing costs an estimated \$98,000 per year. Are these costs factored into the Texas Racing Commission budget?

A few months back, I heard that the Texas Racing Commission was going to furnish two racing judges for each performance and the tracks would furnish two. At that time, that would have eliminated one position from the Texas Racing Commission budget for Gulf Greyhound Park. Now there are four racing judges here. Why can't Gulf Greyhound Park run races with two judges instead of three?

Last year one of the auditors at Gulf Greyhound Park transferred to Austin and the remaining one performed the auditing and the licensing duties. At that time the Texas Racing Commission office requested that we put your software on one of our computers to help with the licensing process. Gulf Greyhound Park was more than happy to agree to this process to help the Texas Racing Commission licensing clerk. The HR clerk at Gulf Greyhound Park now enters all information into the Texas Racing Commission software program to save time for the licensing clerk. However, now the Texas Racing Commission has hired a part-time licensing clerk – another added salary.

I would like to see a detailed cost analysis of the expenses to regulate each horse and greyhound track. I also would like to see a four year list of outs tickets for each track to analyze what tracks have caused the most shortage in outs tickets since the outs money accounts for 40% of the Texas Racing Commission budget, according to Mr. Jackson.

As I stated before, I do not understand how you can possibly think that Gulf Greyhound Park will have the revenue to pay these increases. If any of these plans are adopted, Gulf Greyhound Park will most likely be cutting our performance schedule even more drastically that we are forced to do now.

Yours truly,

Sally B. Briggs General Manager

Copy by U. S. Mail:

R. Dyke Rogers, Chairman, Texas Racing Commission Commissioners
Jesse R. Adams, Texas Racing Commission Commissioner
Treva J. Boyd, Texas Racing Commission Commissioner
Michael G. Rutherford, Texas Racing Commission Commissioner
Charles L. Sowell, Texas Racing Commission Commissioner
Louis Sturns, Texas Racing Commission Commissioner
G. Kent Carter, DVM, Texas Racing Commission Commissioner



December 6, 2006

Charla Ann King
Executive Secretary
Texas Racing Commission
8505 Cross Park Drive
Suite 110
Austin, Texas 78754

Dear Ms. King,

Enclosed is a letter agreement between Scientific Games and Sam Houston Race Park that amends the Services Agreement to allow SGR to migrate Sam Houston and Valley Race Park to the New Jersey QDC.

Sam Houston Race Park respectfully request that this item be added to the December 14<sup>th</sup> Texas Racing Commission meeting agenda.

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opert L. Bork

Président & General Manager

RLB/jlc

CC;

Ann McGovern

Mike Vitek